

OFFICE OF THE SUPERVISOR

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Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



**SOMERS TOWN BOARD
WORK SESSION/REGULAR MEETING - 7:00PM
THURSDAY, AUGUST 5, 2021
www.somersny.com**

6:45pm Executive Session

I. PLEDGE OF ALLEGIANCE:

7:00pm Work Session / Regular Meeting

II. ROLL CALL:

III. PUBLIC HEARINGS:

1. Consolidation of Water Districts
2. Proposed revisions to Town of Somers Comprehensive Plan Update adopted February 11, 2016 with regard to the creation of a new MFR-100 Zoning District in the Town of Somers.

PUBLIC COMMENT

Please limit your comments to no more than 3 minutes.

IV. APPROVAL OF MINUTES:

V. DEPARTMENT REPORTS: The Town Clerk announces receipt of the following monthly reports: Town Clerk, Building Inspector, Zoning Board of Appeals, Plumbing, Bureau of Fire Prevention, Parks & Recreation, Planning & Engineering, Tax Receiver, Director of Finance and Department Heads

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VI. BUSINESS OF THE BOARD:

A. TOWN BOARD:

1. Town of Somers Covid-19 – Update
2. Westchester County Update – Legislator Kitley Covill
3. BHD Water District Study - Town House and Annex Water Supply Recommendation - Woodard and Curran
4. Somers Energy Environment Committee Update – Chairman Don Bleasdale
5. Community Choice Aggregation Memorandum of Understanding (MOA) and the Electric Service Agreement (ESA) with Sustainable Westchester, Inc. – Discussion
6. Town House Meeting Room Communication System Bid Document - Discussion
7. Community Forestry Grant Bid – Discussion
8. Electric Vehicle Charging Stations Installation - Request for additional authorization

B. PARKS & RECREATION: No additional business.

C. FINANCIAL: No additional business.

D. HIGHWAY:

1. Request permission to go to bid for 2022 materials for the Highway Department, per memo dated July 27, 2021 from Nicholas DeVito, Superintendent of Highways.

E. PERSONNEL:

1. Current Vacancies:

- a. Affordable Housing Board (2- 2-year terms ending 7/11/2023.)
- b. Partners in Prevention (3- 3-year terms ending 12/31/2023.)
- c. Partners in Prevention (2- 3-year terms ending 12/31/2022.)

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2. **Upcoming Vacancies - Terms Expiring in 2021:**

- a. Assessment Board of Review (1- 5-year term ending 9/30/2021.)
3. Authorize the probationary appointment of Ms. Ann Garrity as Part-time Office Assistant in the Town Clerk's Office not to exceed 17 hours a week at an hourly rate of \$24.06 per memo dated July 26, 2021 from Kim DeLucia, Executive Assistant to the Supervisor, effective July 8, 2021.
4. Authorize the promotion of Mr. Richard Servello from Part-time Assistant Building Inspector to Part-time Chief Fire Inspector in the Building Department for a maximum of 17 hours a week at an hourly rate of \$39.79 per memo dated July 19, 2021 from Thomas J. Tooma Jr., Building Inspector effective July 27, 2021.
5. Authorize the promotion of Mr. Darwin Yanza from Laborer to Maintenance Mechanic Equipment -Grounds in the Parks and Recreation Department at an annual salary of \$49,809.00, Grade 4A, Step1 in accordance with the CSEA contract per memo dated July 29, 2021 from Steven Ralston, Superintendent of Parks and Recreation effective August 6, 2021.
6. Authorize the reappointment of Mr. Robert Brower to the Somers Affordable Housing Board to a two-year term ending July 11, 2023

F. PLANNING & ENGINEERING:

1. For review and comment:
 - a. Wetland Application – Orfei – 12 Manor Lane
2. For review and comment:
 - a. Wetland & SMESC Application – Steinberg – 3 Tall Trees Court

G. POLICE: - No additional business.

H. CONSENSUS AGENDA:

1. Authorize the following SEQRA/Professional Service Fee refund per July 14, 2021 memo from Steven Woelfle, Principal Engineering Technician:
 - a. \$16,124.50 CVS Route 6

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2. Authorize the Supervisor to execute the following:
- a. Wellness in Nutrition Program (WIN) and corresponding Nutrition Services Incentive Program (NSIP) Funding Contract, for the period of April 1, 2021 through March 31, 2022 in the amount of \$92,238 per memo dated July 1, 2021 from Barbara Taberer, Nutrition Program Director.
 - b. The 2020/2021 School Tax Warrant.

2021 Calendar

August 5, 2021	7:00pm	Town Board Work Session / Regular Meeting Public Hearing: Consolidation of Water Districts. Public Hearing: Proposed revisions to Town of Somers Comprehensive Plan Update adopted February 11, 2016 with regard to the creation of a new MFR-100 Zoning District in the Town of Somers.
September 2, 2021	7:00pm	Town Board Work Session
September 9, 2021	7:00pm	Town Board Regular Meeting
October 7, 2021	7:00pm	Town Board Work Session
October 14, 2021	7:00pm	Town Board Regular Meeting
November 4, 2021	7:00pm	Town Board Work Session
November 11, 2021	7:00pm	Town Board Regular Meeting

Sent to:
TB, TA, TC
7/29/2021
KO

LEGAL NOTICE

NOTICE IS HEREBY GIVEN THAT the Somers Town Board will hold a Public Hearing on August 5, 2021, at 7:00 PM, or as soon thereafter as practical, at the Town House, 335 Route 202, Somers, New York, to consider the adoption of a resolution approving the Joint Consolidation Agreement of the Amawalk-Shenorock Water District, the Amawalk Heights Water District and the Windsor Farms Water District of the Town of Somers to be effective as of January 1, 2022.

A copy of the proposed Joint Consolidation Agreement is available for public inspection and review during the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday by appointment in the Town Clerk's Office, 335 Route 202, Somers, New York 10589 and on the Town's website. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

BY ORDER OF THE TOWN BOARD
Patricia Kalba, Town Clerk

Dated: July 22, 2021
Somers, New York

Seated:
TB, TA, TC
7/29/2021
KS

TOWN OF SOMERS

Local Law No. _____ for the Year 2021

A Local Law to rescind Chapter A172 entitled Amawalk Heights Water District of the Code of the Town of Somers and to enact a new Chapter A172 entitled Somers Consolidated Water District No. 1.

Be It Enacted by the Town Board of the Town of Somers as follows:

ARTICLE I General Provisions

- § A172-1. **Applicability.**
- § A172-2. **Definitions.**
- § A172-3. **Observance of rules and regulations.**
- § A172-4. **Applications and contracts.**
- § A172-5. **Permit required for use of fire hydrants.**

ARTICLE II Tapping and Service Lines

- § A172-6. **Taps and connections.**
- § A172-7. **Size of service lines.**
- § A172-8. **Installation of service line from main to property line.**
- § A172-9. **Cost of service line.**
- § A172-10. **Curb boxes.**
- § A172-11. **Installation of service line from curb box to building.**
- § A172-12. **Valves and fixtures.**
- § A172-13. **Service line trenches; testing of line.**
- § A172-14. **Application required prior to connection; setting of meter.**
- § A172-15. **Separate taps and service lines required for each building.**

ARTICLE III
Meters

- § A172-16. Meters to be furnished by District; setting**
- § A172-17. Inspection of meter and fixtures; correction of violations.**
- § A172-18. Interference with system or fixtures.**
- § A172-19. Damaged meters; charges for repair.**
- § A172-20. Accessibility of meter.**
- § A172-21. Defective meters; testing.**
- § A172-22. One meter only for each tap.**

ARTICLE IV
Discontinuation of Service

- § A172-23. Temporary discontinuation.**
- § A172-24. Permanent discontinuation.**

ARTICLE V
Control of System

- § A172-25. Operation by District only.**

ARTICLE VI
Liability and Responsibility of District and Owner

- § A172-26. Damages from shutoff of water supply.**
- § A172-27. Boilers.**
- § A172-28. Deduction for periods when water is shut off.**
- § A172-29. Damages from water shortage.**
- § A172-30. Faulty lines and fixtures.**
- § A172-31. Reservation of rights by town.**
- § A172-32. Damage from freezing or frost.**
- § A172-33. Maintenance of hydrants and surrounding area.**
- § A172-34. Responsibility of consumer.**
- § A172-35. Responsibility of District.**

ARTICLE VII
Water Rates and Water Fees

- § A172-36. Consolidated Water Rates and Water Fees.**
- § A172-37. Users outside the District.**
- § A172-38. New subscribers.**
- § A172-39. Building construction charges.**

ARTICLE VIII
Billing and Notices

- § A172-40. Submission of bills; payment; unpaid bills.**
- § A172-41. Collection of unpaid bills; responsibility for payment.**
- § A172-42. Service of notices.**

ARTICLE IX
Water Conservation

- § A172-43. Leaks; testing.**
- § A172-44. Emergencies.**

ARTICLE X
Cross-Connection Control Program

- § A172-45. Purpose.**
- § A172-46. Authority.**
- § A172-47. Responsibility of Town Engineer.**
- § A172-48. Definitions.**
- § A172-49. Administration.**
- § A172-50. Responsibilities of Department and owners.**
- § A172-51. Degree of hazard.**
- § A172-52. Permits.**

- § A172-53. Existing in-use backflow prevention devices.
- § A172-54. Periodic testing.
- § A172-55. Records and reports.
- § A172-56. Residential dual check.
- § A172-57. Strainers.
- § A172-58. Effective date.

ARTICLE I General Provisions

§ A172-1. Applicability.

The following rules and regulations established by the Town Board of the Town of Somers, New York, are hereby made a part of the contract between the Somers Consolidated Water District No. 1 and each and every party taking and/or using water furnished by said District or making connections with its mains. The Town Board reserves the right to make such changes in these rules and regulations as it may, from time to time, deem desirable.

§ A172-2. Definitions.

As used in this resolution, the following terms shall have the meanings indicated:

OWNER, CONSUMER and/or USER -

The person or persons or corporation owning the premises connected with the mains and/or using water therefrom.

TOWN BOARD -

The Town Board of the Town of Somers.

TOWN ENGINEER -

The Town Engineer of the Town of Somers as appointed by the Somers Town Board.

WATER DISTRICT -

The Amawalk Heights Water District

§ A172-3. Observance of rules and regulations.

Every consumer or taker of water from the system of said Water District shall be in all respects bound by and shall be considered to have assented to the rules, regulations and requirements of said Board, as herein set forth or as hereinafter amended, as a condition precedent to the rights to service from said water system.

§ A172-4. Applications and contracts.

No person or corporation shall be allowed to use the water of the Water District for any purpose whatever or to connect with the mains without first making application therefor and signing a contract for its use on a form provided. Contracts for water must be signed by the owner of the property or by an agent holding legal authorization to sign for said owner. In the case of a signature by an agent, a copy of the owner's authorization to sign must be filed with the application.

§ A172-5. Permit required for use of fire hydrants.

No person or persons shall be permitted to take water from the fire hydrants to sprinkle any street or portions of the streets or for any other purpose without having first obtained a permit from the Town Engineer, which permit shall be good only for the time named therein. This shall not preclude the inspection and operation of the fire hydrants by members of fire companies in performance of their official duties.

**ARTICLE II
Tapping and Service Lines²**

§ A172-6. Taps and connections.

All tapping and the making of connections with the mains or water pipes of the Water District shall be made by the Water District or its duly authorized agent. Violation of this regulations shall authorize the Town Engineer to cause the water to be shut off without notice. A separate tap and service pipe shall be required for each consumer taking water through a separate meter, but any number of families or business units in a single building may be supplied by the owner thereof through a single meter.

Editor's Note: The following description of a service line was included at the end of this chapter: "A complete service line for a residence from main to inside plumbing includes the following material: A 3/4" corporation cock set in the main, a length of 3/4 copper tubing from the corporation cock to the curb or meter box, a curb box and curb cock or meter box and meter yoke. This material to be furnished and set by the District for service connection charge. From the meter or curb box to the inside of plumbing a length of 3/4" copper tubing, a shut-off valve or cock and check valve, pressure reducing valve, and a meter spool piece, all to be furnished and set by the consumer."

§ A172-7. Size of service lines.

The size of the service line will be three-fourths (3/4) inch unless otherwise designated by the Town Engineer in accordance with information to be furnished by the consumer as to his probable requirements.

§ A172-8. Installation of service line from main to property line.

Service lines from the main to a point approximately on the property line will be installed complete by the Water District acting as the agent for and at the expense of the property owner and will consist of a corporation cock inserted in the main, a section of copper tubing lines and a curb cock and box to be located approximately on the property line.

§ A172-9. Cost of service line.

The standard price for the installation of a three-fourths-inch service line from the main to the property line shall be as set forth in the fee schedule duly adopted by the Town Board.³ In the case of service lines larger than three-fourths (3/4) inch, the owner will be required to pay the difference in cost between a three-fourths-inch line and the larger line.

§ A172-10. Curb boxes.

All curb boxes once set shall be adjusted to changes in grade and shall be kept accessible and in repair by the District at the cost of the owner if such change is caused by the owner. No person shall turn on or shut off any curb cock controlling any service line without the permission of the Town Engineer.

§ A172-11. Installation of service line from curb box to building.

From the curb box to and into the owner's building, the service line is to be installed by the owner's plumber and at his sole expense. The service line is to be of three-fourths-inch type K copper tubing unless otherwise ordered. The open trench installation shall be inspected by the Town Engineer prior to backfill.

§ A172-12. Valves and fixtures.

A stop cock or valve is to be placed inside the foundation wall. A pressure-reducing valve must be placed adjacent to the valve, then a spool piece left for the five-eighths-inch meter, which will be furnished and set by the District. On the outlet side of the meter, the owner shall provide a check valve and also a tee with a drain cock, so that water in the house system can be drained. The pressure-reducing valve must be on the street side of the water meter. Pipe shall be laid at a minimum depth of four (4) feet.

³ Editor's Note: the Table of Water District Charges is included at the end of this chapter.

§ A172-13. Service line trenches; testing of line.

All trenches for service lines shall be excavated at least four (4) feet in depth and at right angles to the main, unless otherwise ordered by the Town Engineer. When the trench is ready, the owner shall connect the service line with the curb cock and shall lay the service line into the building. When the service line has completely installed within the property limits by the owner or his agent, he shall notify the Town Engineer, who will inspect the connections and will turn on the water and test the line. If the test is satisfactory, the owner shall then back fill the trench, but if said test is not satisfactory, the owner shall make such alterations as requested by the Town Engineer, who shall retest the line before permission to backfill is granted. If any service line is backfilled before testing in the presence of the Town Engineer, the trench shall be re-excavated.

§ A172-14. Application required prior to connection; setting of meter.

No connection is to be made until an application has been filed with and approved by the Town Engineer. No water is to be used prior to the settling of the meter.

§ A172-15. Separate taps and service lines required for each building.

A separate tap and service shall be installed for each building used for residential purposes and located on the street in which there is a District water main, and no consumer shall be allowed to supply water to other persons or premises. No connection of any kind shall be made to the service pipe between the main and the meter.

**ARTICLE III
Meters**

§ A172-16. Meters to be furnished by District; setting.

- A. Five-eighths-inch meters will be furnished and set by the Water District and will remain the property of the Water District. In the event that a meter larger than the five-eighths-inch meter is required by the applicant, the applicant shall pay the difference between the five-eighths-inch meter and the larger meter installed. The consumer shall provide the valves and appurtenances described in § A172-12.
- B. The meter stool piece shall be set by the owner's plumber, who shall make suitable provision so that the meter may be set by the District in a horizontal position not more than three (3) feet from the point where the service enters the building.

§ A172-17. Inspection of meter and fixtures; correction of violations.

A. The Town Engineer shall be permitted to enter the premises of any consumer between the hours of 8:00 a.m. and 6:00 p.m. to examine the meter, pipes and fixtures and to make a record of the quantity of water used, including the manner of its use.

B. If any violation of these rules and regulations is found to exist, the Town Engineer may order its correction, and, if it is not corrected within twenty-four (24) hours thereafter, water may be shut off until such violation is remedied.

§ A172-18. Interference with system or fixtures.

No persons other than employees or agents of the Water District shall interfere with or remove any water meter, coupling or shutoff from any service pipe after it has once been installed, and the owner of the premises shall be held strictly responsible for any violation of this regulation.

§ A172-19. Damaged meters; charges for repair.

Any meter damaged by frost or freezing or by hot water backing into the meter or in any other way due to the negligence of the consumer shall be repaired by the Water District at the expense of the property owner, who shall pay for said repairs within thirty (30) days after presentation of the bill therefor. The cost for such repairs shall include the cost of removing, repairing and replacing of said meter and shall be as set forth in the fee schedule duly adopted by the Town Board.⁴

§ A172-20. Accessibility of meter.

Every meter shall be kept unobstructed and accessible to the District employees.

§ A172-21. Defective meters; testing.

A. All meters are tested for accuracy before installation. If any meter is found to be defective, it will be changed as required by the Town Engineer. In case of its ceasing to register accurately, the account will be adjusted by taking the average shown by another meter or an amount equivalent or proportional to that charged during a previous corresponding period.

B. Should a consumer feel that the meter is not registering properly, he shall file a written request to have the meter tested by the Town Engineer upon the payment of a fee as set forth in the fee schedule duly adopted by the Town Board,⁵ which fee shall be remitted if the meter so tested is found to register inaccurately by three percent (3%) either way. This test may be witnessed by the applicant. No refund will be made if the meter is found to register within three-percent accuracy. The inaccurate meter shall be repaired or replaced by the District.

⁴ Editor's Note: The Table of Water District Charges is included at the end of this chapter.

⁵ Editor's Note: The Table of Water District Charges is included at the end of this chapter.

C. If a leak is suspected, because of a high meter reading, a leak inspection of the toilet tank and other fixtures should be made by the homeowner or his plumber at their expense. If the leak is located inside the home or on the street side of the meter, it shall be repaired immediately at the expense of the homeowner.

§ A172-22. One meter only for each tap.

No more than one (1) meter will be furnished for each tap.

**ARTICLE IV
Discontinuation of Service**

§ A172-23. Temporary discontinuation.

Written notice must be given by the owner to the Town Engineer when he wishes to discontinue the use of water, and it will be turned off at the curb box when the property is temporarily vacated.

§ A172-24. Permanent discontinuation.

Should an owner wish to permanently discontinue the service line, he shall notify the Town Engineer, who will cause the service line to be cut off at the main and the main to be plugged. The owner shall be liable for any expenses incident to such permanent disconnection and, in the event of his later desiring to renew the service, shall pay for the same just as if the original service had never existed.

**ARTICLE V
Control of System**

§ A172-25. Operation by District only.

A. Water shall be turned on and off at the curb box only by an employee or agent of the Water District, except in cases of emergency when immediate notice thereof must be given to the Town Engineer. Violation of this rule shall be sufficient cause for the cutting off of the supply of water.

B. Fire hydrants shall be operated by the District only, except in cases of emergency when firemen make appropriate use and connections to the fire hydrant.

ARTICLE VI
Liability and Responsibility of District and Owner

§ A172-26. Damages from shutoff of water supply.

The Water District shall not be liable for any damages which may result to consumer's pipes, appliances, etc., from the shutting off of water mains or service pipes for any purpose whatever, whether previous notice has been given or not.

§ A172-27. Boilers.

In cases where boilers are directly supplied with water, the owner shall provide a suitable valve or other device to prevent collapse or explosion in case the water is shut off in the street mains.

§ A172-28. Deduction for periods when water is shut off.

No deductions from water bills will be made for periods when the service is shut off due to accident or repairs.

§ A172-29. Damages from water shortage.

The Water District shall not be held liable for any damage sustained by reason of its failure to supply water to any consumer at any time or for any cause and reserves the right to control the amount of water supplied in the event that the supply becomes short for any reason.

§ A172-30. Faulty lines and fixtures.

The Water District does not guarantee service from curb box to house or through any piping, valves or connections therein. Faulty service or inadequate supply is frequently due to corroding or stopping of pipes and fixtures. Any necessary changes in piping, valves or connections to increase the water supply or its efficiency must be made by the owner at his own expense.

§ A172-31. Reservation of rights by the town.

The Town Board reserves to itself the control of all taps, mains, curb cocks and meters. It also reserves the right, whenever the Board deems it proper or whenever there is a violation of the rules and regulations, to take charge of and control the service pipes.

§ A172-32. Damage from freezing or frost.

The Water District will not be accountable for any breaks or obstructions caused by frost or otherwise or from any damage arising by leakage from service pipes, fixtures or pipes owned by individuals. The Water District will not thaw out or pay for the thawing out of frozen service lines.

§ A172-33. Maintenance of hydrants and surrounding area.

The Water District will maintain hydrants, valves and connections to mains but is not responsible for the cutting of grass, weeds or brush in their vicinity and is not responsible for the removal of snow.

§ A172-34. Responsibility of consumer.

A. The owner must keep the service pipes from curb box at the property line to building curb boxes and his plumbing fixtures in good repair and, at his own expense, must prevent all unnecessary waste of water.

B. The water consumer shall be liable for such repairs as may be deemed necessary to prevent water waste. Upon failure of the consumer to comply with this rule, the Town Engineer may cause to turn off the water and not turn it on again until the repairs are made.

C. The consumers are warned that high pressures are maintained in the water district, and the installation of a pressure-reducing valve by the owner is required.

D. The owner is liable for any accidents due to curb boxes protruding above grade.

E. The owner must provide access to the meter at all times.

§ A172-35. Responsibility of District.

A. The Water District will process the tap application.

B. The Water District will furnish and install service line meters.

C. The Water District will maintain and repair the water main (generally in the street), fire hydrants and main valves.

D. The Water District will maintain the service line from the main to the curb box (generally located at the property line).

**ARTICLE VI
Water Rates and Water Fees**

§ A172-36. Consolidated Water District Rates.

A. Consolidated Water Rates shall be charged in accordance with Appendix A.

Meters will be read quarterly during the period immediately preceding the expiration of the quarter and billed accordingly.

B. Water Fees shall be charged in accordance Appendix B and billed accordingly.

§ A172-37. Users outside the District.

For users outside of the Water District, the charges will be 1.25 times the charges as set forth in Appendix A.

§ A172-38. New subscribers.

New subscribers coming in during a quarter need pay only the consumption charge.

§ A172-39. Building construction charges.

A. Water for building construction will be charged for at a flat rate. The minimum charge for any building shall be as set forth in the fee schedule duly adopted by the Town Board.⁶

B. The Town Board reserves the right to regulate the purpose for which the water may be used during construction and may at its option require the water to be metered.

C. No water shall be obtained from the mains of the Water District for any purpose, except properly authorized building construction, except through a metered service.

D. When meters are furnished for temporary service, a deposit will be required, to be fixed by the Town Engineer in each case.

ARTICLE VIII
Billing and Notices

§ A172-40. Submission of bills; payment; unpaid bills.

Bills will be mailed to the owner. Checks or money orders for the payment of water bills and water charges shall be made payable to Amawalk Heights Water District. Meters will be read and bills rendered at regular quarterly intervals. Bills for the previous quarter shall be due and payable within thirty (30) days. If bills remain unpaid at the end of sixty (60) days after they become due, the water may be shut off and shall not be turned on again until the bill is paid. The cost to turn the service back on will be as set forth in the fee schedule duly adopted by the Town Board.⁷

⁶ Editor's Note: The Table of Water District Charges is included at the end of this chapter.

⁷ Editor's Note: The Table of Water District Charges is included at the end of this chapter.

§ A172-41. Collection of unpaid bills; responsibility for payment.

The payment of water bills must include all arrears and charges to date. No payment will be received which leaves a previous charge unpaid. Unpaid water bills are a lien on the property. When unpaid water charges are placed on the annual tax roll, a penalty of ten percent (10%) of such charges shall be added thereto. If requested by the owner, the Town Board will send bills to and receive payments from agents or tenants; it should be noted, however, that the owner is responsible for the payment of water bills.

§ A172-42. Service of notes.

Service of any notice, authorized or directed by or on behalf of the Water District, may be made upon the owner or consumer personally or by leaving the notice at the premises where water is supplied or by sending the same by mail to such party at the last address furnished to the Water District.

**ARTICLE IX
Water Conservation**

§ A172-43. Leaks; testing.

A leak the size of a pencil point will waste more water than a family of five (5) persons needs; therefore, it is in the interest of the owner to stop all leaks, no matter how small they appear to be. Leaks in toilet fixtures are largely the cause of high water bills. To determine whether or not your plumbing fixtures are in good order, stop the flow of water from all openings; if the meter is in proper working condition, the lowest denomination hand [ten (10) gallons] will continue to move in the event that there is leakage in the house plumbing system. The leak should be found and repaired immediately at the expense of the homeowner.

§ A172-44. Emergencies.

A. Whenever, in the judgment of the Town Board, the water supply of the Water District is or is about to be diminished to the extent that it will be inadequate to supply all water users in the District for the normal purposes of bathroom, toilet, lavatory and kitchen and fire protection, said Board may declare an emergency by posting notices to that effect at the Amawalk Heights Post Office.

B. During such period of emergency as so posted, no person shall use water by hose, lawn sprinklers, pipes or similar equipment or facilities for:

- (1) The sprinkling or watering of gardens, lawn or other plant life;
- (2) The washing of cars, animals, patios, porches or walks;

- (3) Pools;
- (4) Yard showers;
- (5) The wetting of sides or roofs of any building; or
- (6) Any purpose other than those normal purposes and fire protection as hereinbefore defined.

C. A violation of this section is hereby declared to be a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500.) or imprisonment for a period not to exceed thirty (30) days, or both; and the Board may institute an action for the purpose of recovering a civil penalty not to exceed one thousand dollars (\$1,000.) for each violation from each person violating the provisions of this section. Each violation on any particular day or night shall constitute a separate violation.

ARTICLE X

Cross-Connection Control Program

§ A172-45. Purpose.

A. The purpose of this Article is to:

- (1) Protect the public potable water supply served by the Somers Consolidated Water District No. 1 from the possibility of contamination or pollution by isolating, within its customers' internal distribution systems, such contaminants or pollutants which could backflow or back-siphon into the public water system.
- (2) Promote the elimination or control of existing cross-connections, actual or potential, between public water supply and its customers' in-plant potable water system and nonpotable systems.
- (3) Provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

B. Based on information provided by the County Health Department, the Town Board finds that the majority of existing residential customers will present a very low risk to the public water supply and, accordingly, will not be ordinarily required, except in special circumstances, to install protective devices on water service connections.

§ A172-46. Authority.

A. Under Part 5 of the New York State Sanitary Code (5-1.31), the water purveyor has a responsibility to establish a program with the aim of preventing water from unapproved sources, or any other substances, from entering the public potable water system.

§ A172-47. Responsibility of Town Engineer.

The Town Engineer shall be responsible for administering this cross-connection control program for the protection of the public potable water distribution system from contamination or pollution due to the back flow or back-siphonage of contaminants or pollutants through the water service connection. If, in the judgment of the Town Engineer, an approved backflow device is required at the water service connection to any customer's premises, the Town Engineer, or his delegated agent, shall give notice in writing to said customer to install an approved backflow prevention device at each connection to his premises. The customer shall, within ninety (90) days, install such approved device, or devices, at his own expense, and failure or refusal or inability on the part of the customer to install said device or devices within (90) days shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

§ A172-48. Definitions.

As used in this Article, the following terms shall have the following meanings unless the context shall otherwise require:

APPROVED - Plans/specifications accepted by the Town Engineer and Westchester County Health Department as meeting an applicable specification stated or cited in this regulation or as suitable for the proposed use.

AUXILIARY WATER SUPPLY - Any water supply, on or available to the premises, other than the purveyor's approved public potable water supply.

BACKFLOW - The flow of water or other liquids, fixtures or substances, under positive or reduced-pressure in the distribution pipes of a potable water supply from any source other than its intended source.

BACKFLOW PREVENTER - A device or means designed to prevent backflow or back-siphonage; most commonly categorized as air gap, reduced-pressure-principle device, double-check-valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent and barometric loop.

A. AIR GAP - A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system; physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.

- B. **ATMOSPHERIC VACUUM BREAKER** - A device which prevents back-siphonage by creating an atmospheric vent where there is either a negative pressure or sub-atmospheric pressure in a water system.
- C. **BAROMETRIC LOOP** - A fabricated piping arrangement rising at least thirty five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against back-siphonage.
- D. **DOUBLE-CHECK-VALVE ASSEMBLY** - An assembly of two (2) independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.
- E. **DOUBLE-CHECK VALVE WITH INTERMEDIATE ATMOSPHERIC VENT** - A device having two (2) spring-loaded check valves separated by an atmospheric vent chamber.
- F. **HOSE BIBB VACUUM BREAKER** - A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.
- G. **PRESSURE VACUUM BREAKER** - A device containing one (1) or two (2) independently operated spring-loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. This device includes tightly closing shutoff valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).
- H. **REDUCED-PRESSURE-PRINCIPLE BACKFLOW PREVENTER** - An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.
- I. **RESIDENTIAL DUAL CHECK** - An assembly of two (2) spring-loaded, independently operating check valves without tightly closing shutoff valves and test cocks; generally employed immediately downstream of the water meter to act as a containment device.

BACK PRESSURE - A condition in which the owner's system pressure is greater than the supplier's system pressure.

BACK-SIPHONAGE - The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

COMMISSION - The State of New York Water Supply and Pollution Control Commission.

CONTAINMENT - A method of backflow prevention which requires a testable backflow prevention device (RPZ or a DBL check valve) at the water service entrance.

CONTAMINANT - A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

CROSS-CONNECTION - Any actual or potential connection between the public water supply and a source of contamination or pollution.

DEPARTMENT - The Town of Somers Engineering Department or its delegated representative in charge of the cross-connection program.

FIXTURE ISOLATION - A method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.

OWNER - Any person who has legal title to a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

PERSON - Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality of the United States or any other legal entity.

PERMIT - A document issued by the Town Engineer which allows the installation and use of a backflow preventer.

POLLUTANT - A foreign substance that, if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.

WATER SERVICE ENTRANCE - That point in the owner's water system beyond the sanitary control of the district; generally considered to be the outlet end of the water meter and always before any unprotected branch.

TOWN ENGINEER - The Town Engineer, or his delegated representative in charge of the cross-connection program, is invested with the authority and responsibility for the implementation of a cross-connection control program and for the enforcement of the provisions of this Article.

§ A172-49. Administration.

A. The Department will operate a cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the Commission's cross connection regulations and is approved by the Commission.

B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Commission's regulations if a cross-connection is permitted.

C. If the Department requires that the public supply be protected by containment, the owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize a containment device for that purpose.

D. The owner may utilize public health officials or personnel from the Department, or their delegated representatives, or a private contractor to assist him in the survey of his facilities and to assist him in the selection of proper containment devices and the proper approval and installation of these devices.

§ A172-50. Responsibilities of Department and owners.

A. Department.

- (1) On new installations, the Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, will issue permits and perform inspections. In any case, a minimum of a dual-check valve will be required in any new construction.
- (2) For premises existing prior to the start of this program, the Department will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed; however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.
- (3) The Department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested and rebuilt every five (5) years to ensure satisfactory operation.

- (4) The Department shall inform the owner, by letter, of any failure to comply, by the time of the first reinspection. The Department will allow an additional fifteen (15) days for the correction. In the event that the owner fails to comply with the necessary correction by the time of the second reinspection, the Department will inform the owner, by letter, that the water service to the owner's premises will be terminated within a period not to exceed five (5) days. In the event that the owner informs the Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Department but in no case will exceed an additional thirty (30) days.
- (5) If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
- (6) The Department shall have on file a list of private contractors who are certified back flow device testers. All charges for these tests will be paid by the owner of the building or property.
- (7) The Department will begin initial premises inspections to determine the nature of existing or potential hazards, following the approval of this program by the Commissioner, during the calendar year (1994). Initial focus will be on high-hazard industries and commercial premises.

B. Owner.

- (1) The owner shall be responsible for the elimination or protection of all cross-connections on his premises.
- (2) The owner, after having been informed by a letter from the Department, shall, at his expense, install, maintain and test or have tested any and all backflow preventers on his premises.
- (3) The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
- (4) The owner shall inform the Department of any proposed or modified cross-connections and also any existing cross-connections of which the owner is aware but has not been found by the Department.
- (5) The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
- (6) The owner shall install back flow preventers in a manner approved by the Department.

- (7) The owner shall install only backflow preventers which are approved by the Department and listed on the New York State Department of Health list of acceptable devices.
- (8) Any owner having an existing private well or other private water source must have a permit if the well or source is cross-connected to the District's system. Permission to cross-connect may be denied by the Department. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the District's system.
- (9) In the event that the owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the back flow preventer, such plumbing must have its own backflow preventer installed.
- (10) The owner shall be responsible for the payment of all fees for permits, annual or semi-annual device testing, retesting in the case that the device fails to operate correctly and second re-inspections for noncompliance with Department requirements.

§ A172-51. Degree of hazard.

The Department recognizes the potential threat to the public water system arising from cross-connections. All potential threats will be classified by degree of hazard and will require the installation of approved reduced-pressure-principle backflow prevention devices or double check valves.

§ A172-52. Permits.

The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

- A. Cross-connection permits that are required for each backflow prevention device are obtained from the Department. A fee of twenty-five dollars (\$25.) will be charged for the initial permit and three dollars (\$3.) for the renewal of each permit.
- B. Permits shall be renewed every three (3) years and are nontransferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service.
- C. A permit is not required when fixture isolation is achieved with the utilization of a non-testable backflow preventer.

§ A172-53. Existing in-use backflow prevention devices.

Any existing in-use backflow preventer shall not be allowed by the Department to continue in service if its use results in an unreasonable risk to public health or if the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or if the installation does not meet the requirements. If the device is over five (5) years of age, the device must be rebuilt to meet these requirements. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced-pressure-principle device, or a reduced-pressure-principle device must be installed in the event that no backflow device was present.

§ A172-54. Periodic testing.

A. Reduced-pressure-principle backflow devices shall be tested and inspected at least annually with copies of the certification submitted to the Department.

B. Periodic testing shall be performed by the owner's certified tester. This testing will be done at the owner's expense.

C. Any backflow preventer which fails during a periodic test will be repaired or replaced at the owner's expense. High-hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The owner is responsible for spare parts, repair tools or a replacement device for the rebuilding of the device every five (5) years. Parallel installation of two (2) devices is an effective means of the owner insuring uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.

D. Backflow prevention devices will be tested more frequently than specified in Subsection A above in cases where there is a history of test failures and the Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional test will be borne by the owner.

§ A172-55 . Records and reports.

A. Records. The Department will initiate and maintain the following:

- (1) The master files on customer cross-connection tests and/or inspection.
- (2) Master files on cross-connection permits.
- (3) Copies of permits and permit applications.
- (4) Copies of lists and summaries supplied to the Department.

B. Reports. The Department will submit the following to the Commission:

- (1) Initial listing of low-hazard cross-connections to the state,
- (2) Initial listing of high-hazard cross-connections to the state.
- (3) Annual update lists of items in Subsection B(1) and (2) above.
- (4) Annual summary of cross-connection inspections to the state.
- (4) Annual summary of cross-connection inspections to the state.

§ A172-56. Residential dual check.

A. Effective the date of adoption of this Cross-Connection Control Program for the Town of Somers, all new residential buildings within the Water District boundaries will be required to install a residential dual check device immediately downstream of the water meter. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the Department.

B. The owner must be aware that installation of a residential dual check valve results in a potential closed plumbing system within his residence. As such, provisions may have to be made by the owner to provide for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief vales.

§ A172-57. Strainers.

The Department strongly recommends that all new retrofit installations of reduced-pressure-principle devices and double check valve backflow preventers include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may stir up debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

§ A172-58. Effective Date.

This Local Law shall be effective immediately upon the later of filing of same with the Secretary of State of the State of New York or January 1, 2022.

APPENDIX A

Consolidated Water District Rates

Quarterly Service Charge: (Based on Meter Size)

Meter Size	In District	Out of District : (In Districts Rate Multiplied By 1.25)
5/8"	\$56.23	\$70.29
3/4"	\$83.02	\$103.78
1"	\$112.90	\$141.13
1.5"	\$219.17	\$274.63
2"	\$352.00	\$440.00
4"	\$1069.30	\$1336.63
6"	\$1594.00	\$1992.50
8"	\$2243.20	\$2804.00

In District:

1 to 25,000 gallons \$7.40 per 1,000 gallons or portion thereof.

25,001 to 100,000 gallons \$8.36 per 1,000 gallons or portion thereof.

100,001 gallons and above \$12.22 per 1,000 gallons or portion thereof.

Out of District: (In Districts Rate Multiplied By 1.25)

1 to 25,000 gallons \$9.25 per 1,000 gallons or portion thereof.

25,001 to 100,000 gallons \$10.45 per 1,000 gallons or portion thereof.

125,001 gallons and above 15.28 per 1,000 gallons or portion thereof.

Bulk Hauler Rate.

All bulk hauler purchasers of water shall pay \$20.00 per 1,000 gallons inside the district and \$40.00 per 1,000 gallons outside the district. Minimum bulk hauler purchase shall be deemed to be 1,000 gallons.

APPENDIX B

Town of Somers Water District Fee Schedule		
Somers Consolidated Water District No. 1		
Reference	Fee	
Water Main Extension (But-in-Fee): For all extensions of water mains without an existing water district, the applicant for such an extension shall pay the sum of \$8,000 per dwelling unit serviced or to be serviced by such extension. The fee shall be paid at the time the building permit is issued.	\$8,000 Per dwelling unit to be serviced	
Service Line Connections (residential & commercial): The application fee for all residential and commercial water service connections are as set forth in the following table. The application fee for three-fourths- and one-inch service connections includes the tap application, the service line inspection and either one five-eighths by three-fourths-inch meter or a one-inch meter. The application fee for service connections 1 1/4 inches through eight inches includes the tap application and the service line inspection.	In-District	Out of District
3/4 inch	\$600	\$8,000
1 Inch	\$800	\$8,000
1.25 Inch	\$900	\$8,000
1.5 inch	\$1,000	\$8,000
2 Inch	\$1,100	\$8,000
4 Inch	\$1,200	\$8,000
6 Inch	\$1,500	\$8,000
8 Inch	\$1,500	\$8,000
Damaged Water Meter Charge:		
5/8 x 3/4 Inch	\$235.00	
1 Inch	\$300.00	
1.25 inch and larger	At owners expense	
Replacement of Radio Transmitter:	\$250.00	
Restoring water service:	\$50.00	
Final reading:	\$20.00	
Backflow Prevention:	\$100.00 Per device to review and submit plans	

R/F Sent to:
TB, TA, TC
5/7/21
KB

STEPHENS, BARONI, REILLY & LEWIS, LLP

ATTORNEYS AND COUNSELORS AT LAW

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JOSEPH P. ERIOLE

NORTHERN WESTCHESTER OFFICE
OLD POST ROAD PROFESSIONAL BUILDING
CROSS RIVER, NEW YORK 10518

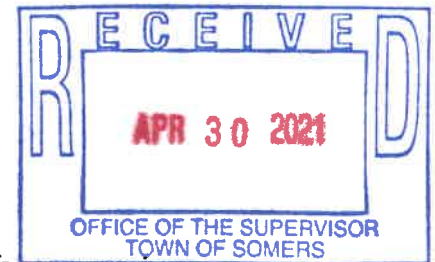
SERVICE NOT ACCEPTED
BY FAX OR EMAIL

April 29, 2021

To: Adam Smith, Water Superintendent

From: Roland A. Baroni, Jr.

Re: Consolidation of Water Districts



Enclosed please find a proposed Joint Consolidation Agreement for your review.

The steps necessary in this process include the following:

1. The Town Board at a public meeting endorses the proposed Joint Consolidation Agreement by resolution, a version of which is attached.

2. No later than 5 days after the public meeting, the proposed agreement:

- A. Must be available for public review in the Town Clerk's office;
- B. Must be on the Town's website; and
- C. A Notice published once a week for 4 consecutive weeks. (*A copy of the Notice is attached*)

3. More than 35 days after the 1st publication, a public hearing is held. Minimum 10 day (not more than 20 day) public notice requirement applies, and again the public notice must also be on the Town's website.

4. Once the public hearing is closed, the Town Board can adopt a resolution approving the Joint Consolidation Agreement and authorizing the execution of same.

Let me know if you have any comments on the proposed agreement. We can look to having it on the Town Board's agenda for either 5/13 or 6/10.

Roland A. Baroni, Jr.

RABjr/wf

Enc.

cc: Rick Morrissey, Supervisor
Patricia Kalba, Town Clerk

JOINT CONSOLIDATION AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____, 2021, by and between the Amawalk-Shenorock Water District (hereafter “AS”), the Amawalk Heights Water District (hereafter “AH”) and the Windsor Farms Water District (hereafter “WF”), each having its principal place of business at 40 Lakeview Drive, Shenorock, New York.

WITNESSETH:

WHEREAS, each of AS, AH and WF are operating water districts in the Town of Somers established pursuant to Town Law of the State of New York and overseen by Boards of Water District Commissioners and servicing defined contiguous areas in the Town of Somers; and

WHEREAS, the Amawalk-Shenorock Water District purchases water from the Northern Westchester Joint Water Works (NWJWW). The water system has an interconnection at the intersection of Mahopac Avenue and Route 35 in Amawalk, NY 10501 and an interconnection at the intersection of Windsor Road and US Route 6 in Yorktown Heights, NY 10598. AS also has two drilled wells and a 1.48M gallon water tank for capacity and fire protection purposes. AH takes water from the Mahopac Avenue interconnection, and WF takes water from the Windsor Road interconnection; and

WHEREAS, no improvements are required to complete the consolidation of the districts. There will be no additional costs to the Town as a result of the consolidation; and

WHEREAS, all districts have the same water rates; and

WHEREAS, the Superintendent of the Water Districts has proposed the consolidation of AS, AH and WF into one operating water district to be known as Somers Consolidated Water District No. 1 and has advanced the following reasons in support of his proposal:

1. A reduction of Westchester County Health Department fees and inspections along with required sampling and monitoring expenses.
2. Difficulties encountered in allocating water consumption charges will be eliminated. A consolidated district will function more efficiently.
3. There will be a reduction in regulatory filings and reporting, and the annual permit fee for three (3) operating water districts will be reduced to one (1).
4. The water rates will remain stabilized, and the separate annual Operation and Maintenance Budgets will be eliminated and absorbed into the budget for the consolidated district.

NOW, THEREFORE, in consideration of the mutual covenants of the parties and for other good and valuable consideration, the receipt of which is hereby acknowledged by each of the parties hereto, it is mutually covenanted and agreed to by and between the parties as follows:

1. The Effective Date of the consolidation for all purposes shall be January 1, 2022.
2. As of the Effective Date, there shall be no debt in either district.

3. Assets consist of the following:

AS assets consist of Water Department Office/Shop located at 40 Lakeview Drive, Shenorock, NY, 1.48M gallon water storage tank located at Ross Drive North, Shenorock, NY, drilled wells located at Travis Road, Baldwin Place, NY, underground infrastructure piping, water mains, fire hydrants, miscellaneous facilities including air relief valves, pressure regulating valves, backflow protection devices and other water main appurtenances, parts and equipment used to maintain the system and three district vehicles.

AH & WF assets consist of additional underground infrastructure piping, additional water mains, fire hydrants, and miscellaneous facilities including air relief valves, backflow protection devices and other water main appurtenances.

4. As of the date of this Agreement, AS has 995 accounts and a fund balance of \$564,354. AH has 102 accounts and a fund balance of \$27,830. WF has 34 accounts and a fund balance of \$72,124.

5. As of the Effective Date, all account holders will become customers of Somers Consolidated Water District No. 1 and all fund balances existing on the Effective Date will be transferred to a new operating account in the name of the consolidated district.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly signed and executed as of the day and year first written above.

AMAWALK SHENOROCK WATER DISTRICT
OF THE TOWN OF SOMERS (AS)

By: _____
Rick Morrissey, Chairman
Board of Water Commissioners

AMAWALK HEIGHTS WATER DISTRICT
OF THE TOWN OF SOMERS (AH)

By: _____
Rick Morrissey, Chairman
Board of Water Commissioners

WINDSOR FARMS WATER DISTRICT
OF THE TOWN OF SOMERS (WF)

By: _____
Rick Morrissey, Chairman
Board of Water Commissioners

STATE OF NEW YORK)
) SS.:
COUNTY OF WESTCHESTER)

On the ____ day of _____ in the year 2021 before me, the undersigned personally appeared RICK MORRISSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

LEGAL NOTICE

NOTICE IS HEREBY GIVEN THAT the Somers Town Board will hold a Public Hearing on _____, 2021, at 7:00 PM, or as soon thereafter as practical, at the Town House, 335 Route 202, Somers, New York 10589, to consider the adoption of a resolution approving the Joint Consolidation Agreement of the Amawalk-Shenorock Water District, the Amawalk Heights Water District and the Windsor Farms Water District of the Town of Somers to be effective as of January 1, 2022.

A copy of the proposed Joint Consolidation Agreement is available for public inspection and review during the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday by appointment in the Town Clerk's Office, 335 Route 202, Somers, New York 10589 and on the Town's website. ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO ATTEND AND BE HEARD.

BY ORDER OF THE TOWN BOARD
Patricia Kalba, Town Clerk

Dated: _____, 2021
Somers, New York

AFFIDAVIT OF POSTING

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, PATRICIA KALBA, being duly sworn, depose and say:

I am over the age of 21 years, reside at _____, Somers, New York, in the Town of Somers, Westchester County, New York, and that on _____, 2021, I duly posted the annexed Notice of Public Hearing to be held on _____, 2021 at 7:00 PM, or as soon as practical at the Town House, 335 Route 22, Somers, New York 10589, to consider the adoption of a resolution approving the Joint Consolidation Agreement of the Amawalk-Shenorock Water District, Amawalk Heights Water District and Windsor Farms Water District of the Town of Somers to be effective as of January 1, 2022, as per the attached, on the sign board maintained by the Town Clerk at the Town House, Somers, New York, pursuant to law.

PATRICIA KALBA, Town Clerk

Sworn to before me this
_____ day of _____, 2021.

Notary Public

RESOLUTION

Subject: Consolidation of the Amawalk-Shenorock Water District,
the Amawalk Heights Water District
and the Windsor Farms Water District

RESOLVED, that the Town Board of the Town of Somers hereby authorizes the Supervisor, in his capacity as Chairman of the Board of Water District Commissioners for each of the water districts captioned above, to execute the Joint Consolidation Agreement dated _____, 2021, and that upon the filing thereof as appropriate with the State Comptroller of the State of New York and the County Clerk of the County of Westchester, that such proceedings be deemed complete; and be it further

RESOLVED, that the name of the water district as of the effective date of January 1, 2022, shall be Somers Consolidated Water District Number 1.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information																		
Name of Action or Project: Consolidation of Amawalk-Shenorock Water District, Amawalk Heights Water District and Windsor Farms Water District																		
Project Location (describe, and attach a location map): Town of Somers																		
Brief Description of Proposed Action: The Superintendent of the Water Districts has proposed the consolidation of the 3 operating water districts to be known as the Somers Consolidated Water District No. 1 and has advanced the following reasons in support of his proposal: 1. A reduction of Westchester County Health Dept. fees and inspection,s required sampling and monitoring expenses. 2. A consolidated district will function more effeciently. 3. Budget process will be streamlined.																		
Name of Applicant or Sponsor: Town of Somers		Telephone: (914) 277-3637 E-Mail:																
Address: 335 Route 202																		
City/PO: Somers		State: NY	Zip Code: 10589															
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; text-align: center;"> <tr> <td>NO</td> <td>YES</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>											
NO	YES																	
<input type="checkbox"/>	<input checked="" type="checkbox"/>																	
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; text-align: center;"> <tr> <td>NO</td> <td>YES</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input type="checkbox"/>											
NO	YES																	
<input type="checkbox"/>	<input type="checkbox"/>																	
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres																		
4. Check all land uses that occur on, are adjoining or near the proposed action: <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Urban</td> <td><input type="checkbox"/> Rural (non-agriculture)</td> <td><input type="checkbox"/> Industrial</td> <td><input type="checkbox"/> Commercial</td> <td><input type="checkbox"/> Residential (suburban)</td> </tr> <tr> <td><input type="checkbox"/> Forest</td> <td><input type="checkbox"/> Agriculture</td> <td><input type="checkbox"/> Aquatic</td> <td colspan="2"><input type="checkbox"/> Other(Specify):</td> </tr> <tr> <td colspan="5"><input type="checkbox"/> Parkland</td> </tr> </table>				<input type="checkbox"/> Urban	<input type="checkbox"/> Rural (non-agriculture)	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential (suburban)	<input type="checkbox"/> Forest	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Aquatic	<input type="checkbox"/> Other(Specify):		<input type="checkbox"/> Parkland				
<input type="checkbox"/> Urban	<input type="checkbox"/> Rural (non-agriculture)	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential (suburban)														
<input type="checkbox"/> Forest	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Aquatic	<input type="checkbox"/> Other(Specify):															
<input type="checkbox"/> Parkland																		

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	N/A <input type="checkbox"/> <input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Rick Morrissey</u> Date: _____, 2021 Signature: _____ Title: <u>Chairman/Board of Water Dist. Commissioners</u>		

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project: _____

Date: _____

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☒ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town Board, Town of Somers

, 2021

Name of Lead Agency

Rick Morrissey

Date

Chairman, Board of Water District Commissioners

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

PRINT FORM

Sent to:
TB, TA, TC
7/29/2021
KO

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE that the Town of Somers will conduct a public hearing on August 5, 2021 at 7:00 p.m. at the Town House, 335 Route 202, Somers, New York on the proposed revisions to Town of Somers Comprehensive Plan Update adopted February 11, 2016 with regard to the creation of a new MFR-100 Zoning District in the Town of Somers.

All persons having an interest in the proposed local law are invited to attend the public hearing and will be afforded an opportunity to be heard. A copy of the proposed local law will be made available by contacting the Office of the Town Clerk during regular business hours.

By Order of the Town Board
of the Town of Somers

Patricia Kalba
Town Clerk

Dated: July 22, 2021

Sent to:
TB, TATC
7/29/2021
KD

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
Fax
(914) 277-4093

Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



David B. Smith
Town Planner
directorofplanning@somersny.com

July 28, 2021

Hon. Rick Morrissey, Supervisor and
Town Board Members
Town Hall, 335 Rte. 202
Somers, NY 10589

RE: Environmental Review – EAF Part 2, EAF Part 3 and EAF Part 3 Environmental Narrative - Highview Court Petition to Amend Zoning Code and Comprehensive Plan Update

Dear Supervisor Morrissey and Town Board Members,

In response to the meeting with the Town Board on June 3, 2021, and in advance of next Thursday's meeting please find the following environmental review documents:

1. Full environmental assessment form (EAF) Part 2 prepared by this office as part of the State Environmental Quality Review (SEQR) process. This was the document the Town Board discussed in detail at your June 3, 2021 meeting and covers the 18 categories of relevant environmental topics to be evaluated.
2. EAF Part 3 prepared by this office. The Part 3 is a standard form which the Lead Agency (the Town Board) will use to indicate that there are no significant adverse impacts identified as part of the environmental review and that a Negative Declaration is being issued, concluding the environmental review.
3. EAF Part 3 Narrative. As you will recall the Board went through each of the impact categories and for some (e.g., transportation, groundwater) there were impacts identified but were determined to be small or could be adequately mitigated.

These documents, along with the entirety of the public record created as part of the Town Board's deliberation on this matter, establish the environmental record the Town has

relied on to make a decision relative to a Determination of Significance. As noted above, based on the input from the June 3, 2021 meeting, the EAF Part 3 reflects a Negative Declaration.

Procedurally, the Town Board needs to open the second required public hearing on the proposed amendments to the Comprehensive Plan. The second public hearing is a requirement under New York State Town Law §272-a.6.a. The Public Hearing on the proposed zoning amendment has already been closed. Once the public hearing has been closed the Town Board, acting as Lead Agency under SEQR can consider the attached documents and conclude the environmental review process. In addition, a draft resolution reflecting the above has been included with this transmission in the event the Board determines that it wants to move forward on this matter.

We look forward to continuing this review with the Board at your upcoming meeting. In the meantime, should you have any questions on the above or the attached please feel free to reach out to this office directly.

Best regards,

A handwritten signature in dark ink, appearing to read "D. B. Smith", with a stylized flourish at the end.

David B. Smith

Cc: Roland Baroni
Patricia Kalba
Kim DeLucia

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Agency Use Only [If applicable]

Project :

Date :

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency and the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land Disturbance to approximately 1.926 acres of the 2.279 acre site Proposed action may involve construction on, or physical alteration of, <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES the land surface of the proposed site. (See Part 1. D.1) <i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

2. Impact on Geological Features The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - c. If "No", move on to Section 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - l. If "No", move on to Section 4.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>

l. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) <i>If "Yes", answer questions a - h. If "No", move on to Section 5.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells. Anticipated water demand of 3,300 gpd	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services. Provision of on-site wells and septic system	D1a, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) <i>If "Yes", answer questions a - g. If "No", move on to Section 6.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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6. Impacts on Air The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals NYSDEC identified potential presence of habitat of Long-eared bat The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Yes", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If "Yes", answer questions a - e. If "No", go to Section 12.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) <i>If "Yes", answer questions a - c. If "No", go to Section 13.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation

The proposed action may result in a change to existing transportation systems.
(See Part 1. D.2.j)

☒ NO☐ YES

If "Yes", answer questions a - g. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy

The proposed action may cause an increase in the use of any form of energy.
(See Part 1. D.2.k)

☒ NO☐ YES

If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____			

15. Impact on Noise, Odor, and Light

The proposed action may result in an increase in noise, odors, or outdoor lighting.
(See Part 1. D.2.m., n., and o.)

☒ NO☐ YES

If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)

☒ NO

☐ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

17. Consistency with Community Plans Comprehensive Plan Update being revised to reflect new zoning designation The proposed action is not consistent with adopted land use plans. <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. C.1, C.2. and C.3.) <i>If "Yes", answer questions a - h. If "No", go to Section 18.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input type="checkbox"/>	<input type="checkbox"/>
h. Other: _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character The proposed project is inconsistent with the existing community character. <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. C.2, C.3, D.2, E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

Project :

Date :

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

See attached Environmental Narrative

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status:

☐ Type 1

☒ Unlisted

Identify portions of EAF completed for this Project:

☒ Part 1

☒ Part 2

☒ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information
traffic analysis, SWPPP, technical memorandums prepared on behalf of the Lead Agency, correspondence from NYS DEC, NYC DEP, West Co. and the
Town of Somers Planning Board

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the
Town of Somers Town Board as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact
statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or
substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative
declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact
statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those
impacts. Accordingly, this positive declaration is issued.

Name of Action: 259 Route 100 - Comprehensive Plan amendment, adoption of Multifamily Residence Route 100 MFR-100 District and site plan

Name of Lead Agency: Town of Somers Town Board

Name of Responsible Officer in Lead Agency: Hon. Rick Morrissey

Title of Responsible Officer: Supervisor

Signature of Responsible Officer in Lead Agency:

Date:

Signature of Preparer (if different from Responsible Officer) David B. Smith

Date:

For Further Information:

Contact Person: David B. Smith, Planning Consultant

Address: 335 Route 202, Somers, NY

Telephone Number: tel:914-277-5366

E-mail: directorofplanning@somersny.com

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

Environmental Narrative – EAF Part 3 Evaluation of the Magnitude and Importance of Project Impacts and Determination of Significance

Proposed Action:

Petition to Amend the Town of Somers Comprehensive Plan Update

Petition to Amend the Zoning Code of the Town of Somers to Create MFR-100 District

Petition to apply the MFR-100 District to Town of Somers tax parcel 28.06-1-15 (aka 259 Route 100)

Site Plan Approval for the proposed construction of two (2) three-story multi-story multifamily residential buildings consisting of 24 dwelling units (15 percent of which would be affordable) supported by 47 off-street parking spaces.

Lead Agency: Town of Somers Town Board

Involved Agencies: Town of Somers Planning Board
Westchester County DOH
NYS DEC
NYC DEP
NYS DOT

1. Impact on Land: Proposed Action may involve construction on, or physical alteration of, the land surface of the proposed site.

The site plan submitted as part of the Proposed Action calls for site disturbance approximately 1.9± acres of the 2.2± acres site related to the construction of the proposed multi-family buildings, parking and septic system.

Based on the de minimis nature of the site disturbance compared to existing conditions, any impact related to construction activities would be small and mitigated through the incorporation of a comprehensive stormwater pollution prevention plan (SWPPP). The Applicant has noted that construction activities are anticipated to last approximately 24 months which should be considered a small impact given the site's location in relation to other development and the implementation of the aforementioned SWPPP.

2. Impact on Geological Features

No impacts anticipated.

3. Impact on Surface Waters

No impacts anticipated.

4. Impact on Groundwater: The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.

The Proposed Action is partially located within the Town of Somers Groundwater Protection (GP) Overlay District which will require a special permit application to the Planning Board and the provision of a

hydrogeologic analysis. Preliminary soil testing conducted by the Applicant indicated that the soils were found to be suitable for on-site subsurface treatment.

Estimated water demand is anticipated to be approximately 3,300 gallons per day with water supplied by wells to be approved by Westchester County Department of Health and the NYC DEP. It is not anticipated that the water supply demand would exceed safe and sustainable withdrawal capacity of the underlying aquifer.

The proposed well system will need to be tested by a NYS Dept. of Health/Westchester County Dept. of Health approved lab, prior to being put into service. This test will determine if the water meets NYS drinking water standards. Based on the initial water test, the type and quantity of treatment will be determined. Also based on the initial water quality test and treatment, periodic testing/monitoring will need to be performed. Depending on the treatment and if there any contaminants, the testing/monitoring may be done monthly, quarterly, or some time interval determined by the Health Department. In addition, the system will need to be "run" (i.e., tested/monitored/treatment provided) by a licensed water system operator.

Based on the historic use of the property as a single-family residence it is not anticipated that there would be water quality issues.

5. Impact on Flooding

No impacts anticipated.

6. Impacts on Air

No impacts anticipated.

7. Impact on Plants and Animals: The proposed action may result in a loss of flora or fauna.

New York State DEC¹ has indicated that the Project Site is located within or near records of the Northern long-eared bat which is a State listed species. NYS DEC has provided recommendations to avoid adverse impacts and the need for an Incidental Take Permit pursuant to 6 NYCRR Part 182. The Applicant has indicated that tree removal will take place from November 1st to March 31st.

8. Impacts on Agricultural Resources

No impacts anticipated.

9. Impact on Aesthetic Resources

No impacts anticipated.

10. Impact on Historic and Archeological Resources

No impacts anticipated.

11. Impact on Open Space and Recreation

No impacts anticipated.

¹ Email correspondence from C. Pacella, NYS DEC to Syrette Dym, Director of Planning, February 17, 2021

12. Impact on Critical Environmental Areas

No impacts anticipated.

13. Impact on Transportation: The proposed action may result in a change to existing transportation systems.

The Applicant has submitted a technical report on the anticipated impacts associated with the Proposed Action²(the "Traffic Report"). The Traffic Report evaluated existing conditions at the Subject Site including the Route 100 driveway and trip generation. The Traffic Report indicated that there was sufficient capacity on the local roadway network to accommodate the Proposed Action.

The Traffic Report was reviewed by the Town's Traffic Engineer³ and comments were provided to the Town and responses provided back from the Petitioner's traffic consultant which indicated that the Proposed Action would have an insignificant impact on the study area intersections.

14. Impact on Energy

No impacts anticipated.

15. Impact on Noise, Odor, and Light

No impacts anticipated.

16. Impact on Human Health

No impacts anticipated.

17. Consistency with Community Plans: The proposed action is not consistent with adopted land use plans.

No impact anticipated but it is noted that as part of the Proposed Action the Town of Somers Town Board has amended the 2016 Comprehensive Plan Update to reflect the creation of the new zoning. The new Multi-family Route 100 (MFR-100) zone is intended to act as a transition from the heavier commercial uses along the Route 100 corridor and the surrounding residential neighborhoods.

18. Consistency with Community Character: The proposed project is inconsistent with the existing community character.

The Applicant has provided a summary of demographic data from similar properties that the Applicant owns in the Town of Somers, the results of which indicate that there is typically low occupancy and no school age children. It is noted that applying industry standards for determining public school age children⁴ a development like the one contemplated might generate approximately four public school age children. The Proposed Action includes the provision of 15%, or four units, of affordable housing adding

² Reports prepared by Provident Design Engineering submitted to the Town on April 16, 2021, May 19, 2021 and June 9, 2021

³ Technical review memo prepared by Hardesty & Hanover submitted to the Town May 6, 2021, May 27, 2021 and June 21, 2021

⁴ Rutgers University, Center for Urban Policy Research, Residential Demographic Multipliers, June 2006

to the overall diversity of housing within the Town. Based on the aforementioned summary of demographic data provided by the Applicant the Proposed Action is not expected to have an impact on emergency services. In addition, the Applicant has proposed to construct a sidewalk to enhance access to local business and a portion of the additional discretionary income provided by each new household will be spent on goods and services within the greater Somers community.

Date:

Resolution #:

**RESOLUTION TOWN BOARD
SEQRA NEGATIVE DECLARATION, COMPREHENSIVE PLAN UPDATE AMENDMENT,
MULTI-FAMILY RESIDENCE ROUTE 100 – MFR-100
ZONING DISTRICT ADOPTION AND ZONING MAP AMENDMENT**

WHEREAS, on or about February 11, 2016, the Somers Town Board (the “Town Board”) adopted a duly prepared Comprehensive Plan Update which included significant public input including public hearings and an environmental review as required by the New York State Environmental Quality Review; and

WHEREAS, the Comprehensive Plan Update outlined certain goals and objectives related to plan proposals and potential implementation programs designed to shape the physical environment of the Town that are meant to preserve its natural environment and historic character while creating a compatible environment for appropriate growth and development; and

WHEREAS, Section 272-a.11.(a) of New York State Town Law requires that all town land use regulations must be in accordance with a community’s comprehensive plan; and

WHEREAS, on or about November 25, 2020, a petition to amend the Town of Somers Zoning Code (the “Zoning Code”) was submitted on behalf of Londonderry Group, Inc (the “Petitioner”) the owner of an approximately 2.28-acre parcel of land located at 259 Route 100, shown and designated on the Town of Somers Tax Map at Section 28.06, Block 1, Lot 15, (the “Subject Site”); and

WHEREAS, in considering the new MFR-100 District, the Town Board recognized that the Comprehensive Plan Update will also need to be updated consistent with New York State Town Law; and

WHEREAS, the petition to rezone the Zoning Code included a new subsection to Section 170-13 of the Zoning Code Multifamily Residence Route 100 MFR-100 District (the “MFR-100 District”) which is proposed to be applied to the Subject Site along with a proposal to amend the Town’s Comprehensive Plan Update; and

WHEREAS, the Petitioner included an full environmental assessment form (“EAF”) Part 1 and conceptual site plans for the development of the Subject Site consisting of two (2) three-story multi-family residential buildings with a total of 24 dwelling units supported by 47 off-street parking spaces which along with the petition constitutes the Proposed Action as that term is defined under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Petitioner met with the Town Board on December 3, 2020 and December 10, 2020 to discuss the Proposed Action and review alternative conceptual site plan layouts; and

WHEREAS, based on comments from the Town Planning Director and Town Attorney, revised text and plans were submitted to the Town Board on December 29, 2020; and

WHEREAS, the Town Board circulated a Notice of Intent to Act as Lead Agency and conduct a coordinated review and such notice was distributed to a comprehensive list of Interested and Involved Agencies for their review and consent; and

WHEREAS, at the January 14, 2021 meeting the Town Board assumed Lead Agency status for conducting the required environmental review and scheduled separate public hearings for the proposed zoning change and the changes to the Town's Comprehensive Plan for February 11, 2021; and

WHEREAS, the Town of Somers Planning Director by virtue of a January 19, 2021 memorandum to the Petitioner requested additional information to supplement the EAF Part 1 and the environmental record with respect to the Proposed Action; and

WHEREAS, as required under Section 272-a.5.(b) of New York State Town Law, a formal referral dated January 15, 2021 was made to the Westchester County Planning Board on the proposed amendments to the Comprehensive Plan Update along with the proposed zoning amendments and a response was provided dated January 29, 2021; and

WHEREAS, on February 10, 2021, after referral from the Town Board, the Town of Somers Planning Board (the "Planning Board") did discuss the Proposed Action at a regularly scheduled meeting and did provide their comments back to the Town Board consistent with Section 1.8 of the Town Code and Section 271.14.a-b. of New York State Town Law; and

WHEREAS, on February 11, 2021, the Town Board opened duly noticed public hearings on both the revisions to the Town of Somers Comprehensive Plan Update and the proposed amendment to the Zoning Code in which all members of the public were invited to be heard and such public hearings were continued and subsequently closed on May 13, 2021; and

WHEREAS, on April 16, 2021, the Petitioner submitted to the Town Board an environmental assessment form (EAF) addendum responding to the January 19, 2021 request for additional information, copy of the proposed zoning text amendments, engineering plans (including existing conditions plan, site plan and conceptual landscape plans), aerial map of the Subject Site, preliminary stormwater pollution prevention plan (SWPPP), wetlands determination letter, wastewater and water memorandum, and traffic impact study; and

WHEREAS, on June 3, 2021 the Town Board did discuss the Full Environmental Assessment Form Part 2 and as required by New York State Town Law §272-a.6.a, scheduled a second public hearing on the proposed amendment to the Comprehensive Plan; and

WHEREAS, on June 21, 2021, the Town received a review letter of traffic impact from Hardesty & Hanover, the Town's traffic consultant which concluded that the Proposed Action would have an insignificant impact on the study area intersections; and

WHEREAS, on August 5, 2021, the Town Board did open a duly noticed second public hearing on the proposed amendments to the Comprehensive Plan where all members of the public were invited to be heard and the public hearing was subsequently closed; and

NOW, THEREFORE, BE IT RESOLVED, that the Lead Agency makes the following findings after having fully considered the environmental review record and supporting documentation, and having considered the preceding written facts and conclusions relied upon to meet the requirement of 6 NYCRR 617.7 and 617.11, the Town Board determines after a review of EAF Part 2 supported by the EAF Part 3 and all the other supporting information that while the Proposed Action may have some limited impacts to the environment, those impacts will be either small or have been mitigated to address identified

impacts and does hereby make a Negative Declaration under SEQRA that the Proposed Action will result in no significant adverse impact to the environment; and be it further

RESOLVED, that the Town Board does hereby adopt the amendments to the Comprehensive Plan of the Town of Somers to recognize the creation of a new multi-family residence district Multifamily Residence Route 100 (MFR-100) District; and be it further

RESOLVED, that the Town Board does hereby adopt the proposed zoning text amendment to the Town of Somers Zoning Code as attached hereto allowing for the creation of new Multifamily Residence Route 100 (MFR-100) District; and be it further

RESOLVED, that the Town Board hereby rezones the property known as Tax Parcel 28.06-1-15 as shown on the Town of Somers Tax Maps from Residence R-80 Zoning District to MFR-100 District and approves a Zoning Map Amendment reflecting same.

Moved: _____

Seconded: _____

Vote: _____

Sent to: TB, TA, TC
8/4/2021
KO

Kim DeLucia

From: Steve Robbins <srobbins@woodardcurran.com>
Sent: Tuesday, August 3, 2021 8:56 PM
To: Rick Morrissey; Adam Smith
Cc: Eli Barkovic; Kim DeLucia
Subject: Town House Water Options Memo
Attachments: 2021-08-03 DRAFT Town House Water Supply Options Analysis.pdf

Rick and Adam,

Attached for your review and input is a draft supply options analysis memo for the Town House. There are some details to work out, but I hope this conveys our recommended direction – to pursue the expansion of the Heritage Hills/Suez system – based on the similar net construction cost and reduced operating costs to the Town.

We're continuing to request additional information to confirm rates, reimbursement, procurement procedures, approval procedures, etc. We've had a few vacations and reassignments on the Suez side the last few weeks, so getting firm answers has been difficult.

WCHD was clear in my conversation with them last week that they don't want this to drag on, so we'll need to lay out an aggressive timeline to convince them this is the way forward and that it is feasible from the Heritage Hills supply side. Steve Woelfle and I have a site walk with Suez on Friday morning to discuss some planned well rehabilitation work that they have.

I think the key talking points to the Town Board on Thursday are:

1. The Town has been cited with a violation for an exceedance of PFAS for the Town House supply.
2. Staff has been notified and there are notices posted at water faucets.
3. The Town currently supplies bottled water for drinking due to high levels of sodium in the current supply.
4. To address the violation W&C evaluated 2 options:
 - a. Add a treatment system for the Town House system, which would be a 4-vessel GAC system, requiring a new treatment building and infrastructure on the TH property
 - b. Bring public water from the Heritage Hills system to supply the Town House and extend the supply through the B-HP zone, approximately 1 mile of pipe.
5. Based on our analysis and conceptual conversations with Suez (HH system owner), they have a willingness to supply.
6. Based on informal conversations with commercial property owners around the Town House, they are interested in having the Town bring public water.
7. If the public water option is pursued, the Town can either set up and administer a new water district, or the existing Heritage Hills system can be expanded and administered by them (Town would be a customer)
8. If HH/Suez expands their system, the Town would construct the water main improvements and then be reimbursed for 75 feet of water main for each metered connection added to their system over a 5-year period.
9. The cost to provide a new treatment system is estimated to be \$400,000
10. The Total cost to construct a new water supply would be on the order of \$2M, with approximately 2/3 of that cost reimbursed by Suez.
 - a. There is a balance between number of properties served and cost that needs to be balanced so the Town isn't installing an excessive amount of main relative to the reimbursement, to keep the capital cost balanced between the options.
 - b. Additional outreach to potentially impacted properties is needed to determine the final extents of what the Town would be willing to construct.
11. The setup of a new district or expansion of the HH system will take some time for the design, permitting, and legal processes to advance, but we're seeing 6-month lead times on some GAC filter vessels right now as well.
12. Our recommendation is to focus on the expansion of the HH system and refine the scope, cost, timeline, and permitting process in coordination with Suez and WCHD.

- Steve

Sent 20: TB, TA, TC 7/21/2021 KD

Kim DeLucia

From: Dan Welsh <dan@sustainablewestchester.org>
Sent: Monday, July 12, 2021 8:00 AM
To: Kevin Hansan; Warren Lucas; MaryAnn Carr; Peter Parsons; Rick Morrissey
Cc: Nina Orville; Paul Presendieu; Janine Kourakos; Mary Hafter; Kim DeLucia; Nicole Engel; Phyllis Cohen
Subject: Westchester Power Renewal - MOU, ESA
Attachments: 2021-07-12_MOU_NYSEG.docx; 2021-05-24_MOU_NYSEG_Redline.docx; 2021-07-12_ESA_NYSEG.docx; 2021-07-12_ESA_NYSEG Redline.docx

Honorable Supervisors:

In our last session on June 29, we looked at indicative pricing and other inputs. With the market having moved higher, we decided to explore the possibility of securing a short contract, perhaps 6 months, with the idea that it might get us to another point where trends might look a little more supportive (and opt-out community solar has started up). I was tasked with reaching out to our supplier Eligo to see what they might be able to do. Unfortunately the results were not helpful; they pointed out that such a short contract would have to absorb the same fixed costs such as the notification mailings and in fact would yield a higher price.

In our meeting on the 29th we also talked about what it would mean to delay for a couple of months, but consensus was that that would create chaos from having people drop back out to NYSEG, get NYSEG switch letters (without the check-in of our usual notification letter) and then repeat the process to come back in a few months thereafter.

So we are proposing that we move ahead with the bidding process as per our standard practice, setting our "not-to-exceed" at the lowest indicative rate for the renewable supply option. As a reminder, the indicatives were:

Indicative pricing, 12-month, in cents

	Residential	Commercial
Standard	7.740	7.693

Renewable	<u>8.776</u>	<u>8.729</u>
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As we have seen, the RECs (Renewable less Standard price) for the renewable option are up to approximately a penny a kWh (from the 0.6 cent level we are at in the current contract).

Shaving off the hundredths, the not-to-exceed number for both residential and small commercial is then **8.70 cents**.

I have attached the MOU template and Electric Service Agreement in both redline and clean versions for counsel review and distribution to your Boards. The overall schedule has us executing the MOUs in July or latest, first 10 days of August so that we are ready for the auction. Given the trends, it would probably be good to set the auction sooner rather than later so we are ready to visit your boards or support in any way that may be helpful. We'll check in with you to coordinate soon.

Thanks and regards,

Dan Welsh
Program Director
Westchester Power
A Program of Sustainable Westchester
914-242-4725

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into by and between: **Sustainable Westchester, Inc., a New York non-profit corporation (“Sustainable Westchester”), and the City/Town/Village of _____ (the “Municipality”), a local government member of Sustainable Westchester (each a “Party” and collectively, the “Parties”).**

1. Background:

- a. In February 2015, the New York Public Service Commission issued an Order for Case 14-M-0564 as follows: “The Petition of Sustainable Westchester is granted to the extent that its municipal members are authorized to undertake a Community Choice Aggregation demonstration project consistent with the discussion in the body of this Order...”
- b. The PSC subsequently issued an Order for Case 14-M-0224 on April 21, 2016, which authorized Community Choice Aggregation (“CCA”) throughout New York State (the “CCA Order”) and on November 15, 2018 issued the “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” reauthorizing the Sustainable Westchester CCA program under a Master Implementation Plan.
- c. Sustainable Westchester’s CCA Program enrolled Participating Customers from an initial group of 20 participating municipalities in April 2016. Since then, eight additional municipalities have joined and several other municipalities are actively working towards participation.
- d. For participating municipalities in the New York State Electric and Gas (“NYSEG”) utility territory, the current Electric Service Agreement for the Sustainable Westchester CCA Program will terminate on November 30, 2021.
- e. In compliance with the PSC CCA Orders, the **Municipality** has adopted local legislation to enable Community Choice Aggregation.
- f. As a member of Sustainable Westchester in good standing and participant in the Sustainable Westchester CCA Program, the **Municipality** wishes to continue to engage the services of Sustainable Westchester as the Program Manager for Community Choice Aggregation for the Operation and Maintenance of the Program.

2. Definitions:

- a. **Eligible Customers** – Customers of electricity and/or natural gas eligible to participate in the CCA Program, either on an Opt-out or Opt-in basis, as delineated in the CCA Framework Order. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality and served by the Distribution Utility, as such boundaries exist on the Effective Date of this ESA.
- b. **Default Product** – The product selected by the Municipality for supply to its Eligible Customers upon enrollment, unless they take action to select a different product or opt out.
- c. **Community Choice Aggregation Program or CCA Program or Program**– A municipal energy procurement program, which replaces the incumbent utility as the default supplier for all Eligible Customers within the Participating Municipality, as defined in the PSC CCA Orders.

- d. **Competitive Supplier:** An entity duly authorized to conduct business in the State of New York as an energy service company (“ESCO”) that procures electric power for Eligible Customers in connection with this CCA Program.
- e. **Compliant Bid:** Electric power supply bid from a Competitive Supplier that meets the requirements specified in this MOU and the 2021 ESA. A Compliant Bid price must be inclusive of fees owed to Program Manager and be less than:
 - i. Residential accounts: 8.70 cents/kwh;
 - ii. Small commercial accounts: 8.70 cents/kwh
- f. **Distribution Utility:** Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.
- g. **Electric Service Agreement (“ESA”):** An agreement that implements a CCA Program and contains all the terms and conditions of the Program.
- h. **2020 ESA:** The ESA which implemented the Sustainable Westchester CCA Program during the period from December 1, 2020 to November 30, 2021.
- i. **2021 ESA:** The ESA which will implement Sustainable Westchester CCA Program commencing December 1, 2021 for the NYSEG service territory. The 2021 ESA shall have substantially the same terms outlined in the attached 2021 ESA Template (Attached as Exhibit 1). The 2021 ESA Template tracks as closely as possible to the 2020 ESA in its content, with only minor clarifying changes to better align the 2021 ESA Template with the CCA Orders and the Program’s existing practices.
- j. **CCA Orders:** Collectively, the February 26, 2015 “Order Granting Petition in Part” issued by the PSC in Case 14-M-0564; the April 21, 2016 “Order Authorizing Framework for Community Choice Aggregation Opt-out Program” issued by the PSC in Case 14-M-0224 (the “CCA Framework Order”), which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan.
- k. **Qualifications Review:** A verification of the status of the Competitive Supplier as an electricity supplier in the Distribution Utility’s service territory. A precondition for attaining such status is that Competitive Supplier has met the credit requirements established by the New York Independent Systems Operator .
- l. **Participating Municipality:** A dues-paying municipal member of Sustainable Westchester, which has adopted the applicable local legislation for the Community Choice Aggregation Program.
- m. **Participating Customers:** Eligible Customers enrolled in the Program, including Opt-out Eligible Customers who have been enrolled subsequent to the opt-out process and other customers who have opted in.
- n. **Opt-out Eligible Customers:** Eligible Customers that are eligible for Opt-out treatment as delineated in the CCA Framework Order. For the avoidance of doubt, Opt-out Eligible Customers shall not include customers that have previously opted-out of the Program.
- o. **Program Manager:** Sustainable Westchester, a non-profit corporation of which the Municipality is a member.

- p. **Public Service Commission (“PSC”)**: The New York State Public Service Commission or the New York State Department of Public Service acting as staff on behalf of the Public Service Commission.
- 3. **Purpose**: The purpose of the Memorandum of Understanding is as follows:
 - a. To establish participation by **the Municipality (hereafter, the “Participating Municipality”)** in a Community Choice Aggregation Program (hereafter, the “Program”) that will be managed on its behalf by **Sustainable Westchester, (hereafter, the “Program Manager”)** under the 2021 ESA.
 - b. To affirm that the Participating Municipality and Program Manager agree to adhere to the terms and conditions of the 2021 ESA in the event they execute it.
 - c. To affirm that the Participating Municipality and Program Manager agree to execute the 2021 ESA, subject to the conditions of review and approval outlined in 4(c) and 5(a), below.
- 4. **Roles and responsibilities of the Program Manager**: As Program Manager, Sustainable Westchester agrees to perform all duties outlined in the 2021 ESA and, prior to execution of that agreement, Program Manager agrees to:
 - a. Provide the involved agencies and parties to the PSC CCA Orders, including, but not limited to, the Public Service Commission and Distribution Utility, requested information about and documentation of the actions undertaken by the Participating Municipality in furtherance of enabling participation in the Program;
 - b. Manage the energy procurement bidding process including:
 - i. the identification and notification of potential firms seeking to be the Competitive Supplier,
 - ii. the management of the Request for Proposals (“RFP”) process from preparation of the content to the publication of the RFP and management of firms responding to the RFP,
 - iii. the preparation of the 2021 ESA that will be included in the RFP,
 - iv. the acceptance, secure opening, and review of the responses to the RFP, and the organization of the Qualifications Review and bid evaluation, all in a manner that is transparent to the Participating Municipality and firms seeking to be the Competitive Supplier;
 - c. Sign the 2021 ESA in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed qualified for the duration of the 2021 ESA by the Qualifications Review, and
 - ii. such Competitive Supplier’s response to the RFP is deemed by the Program Manager to be a Compliant Bid as defined in Section 2 above.
 - d. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager’s inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities.
- 5. **Roles and responsibilities of the Participating Municipality**: the Participating Municipality agrees to:
 - a. Sign the 2021 ESA in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed qualified for the duration of the 2021 ESA by the Qualifications Review, and

- ii. such Competitive Supplier's response to the RFP is deemed by the Program Manager to be a Compliant Bid as defined in Section 2 above.

- 6. Term and Termination:** This Memorandum of Understanding shall expire on the earlier of November 30, 2021 or the date on which the 2021 ESA is signed by the Participating Municipality, the Program Manager, and the selected Competitive Supplier. Participating Municipality shall have the right to terminate this Memorandum of Understanding for any of the reasons set forth in the Termination section of the ESA attached hereto as Exhibit 1.

IN WITNESSETH WHEREOF, the Parties have signed this MEMORANDUM OF UNDERSTANDING on the day and year appearing below their respective signatures.

City/Town/Village of _____

Authorized Official Name and Title: _____

Signature: _____

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices: _____

Sustainable Westchester, Inc.

Authorized Official Name and Title: Nina Orville, Executive Director

Signature: _____

Address: 40 Green Street, Mount Kisco, NY 10549

Telephone(s): (914) 242-4725

E-Mail Address: nina@sustainablewestchester.org

Address for Notices: 40 Green Street, Mount Kisco, NY 10549

Attachments: Exhibit 1, 2021 ESA Template (2021-07-12_ESA_NYSEG.docx)

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into by and between:

Sustainable Westchester, Inc., a New York non-profit corporation ("Sustainable Westchester"), and the City/Town/Village of _____ (the "Municipality"), a local government member of Sustainable Westchester (each a "Party" and collectively, the "Parties").

1. Background:

- a. In February 2015, the New York Public Service Commission issued an Order for Case 14-M-0564 as follows: "The Petition of Sustainable Westchester is granted to the extent that its municipal members are authorized to undertake a Community Choice Aggregation demonstration project consistent with the discussion in the body of this Order..."
- b. The PSC subsequently issued an Order for Case 14-M-0224 on April 21, 2016, which authorized Community Choice Aggregation ("CCA") throughout New York State (the "CCA Order") and on November 15, 2018 issued the "Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program" reauthorizing the Sustainable Westchester CCA program under a Master Implementation Plan.
- c. Sustainable Westchester's CCA Program enrolled Participating Customerseustomers from an initial group of 20 participating municipalities in April 2016. Since then, eightseven additional municipalities have joined and several other municipalities are actively working towards participation.
- d. For participating municipalities in the New York State Electric and Gas ("NYSEG") utility territory, the current Electric Service Agreement for the Sustainable Westchester — CCA Program will terminate on November 30, 20210—.
- e. In compliance with the PSC CCA Orders, the **Municipality** has adopted local legislation to enable Community Choice Aggregation—.
- f. As a member of Sustainable Westchester in good standing and participant in the Sustainable Westchester CCA Program, the **Municipality** wishes to continue to engage the services of Sustainable Westchester as the Program Manager for Community Choice Aggregation for the Operation and Maintenance of the Program.

2. Definitions:

- a. **Eligible Customers** – Customers of electricity and/or natural gas eligible to participate in the CCA Program, either on an Opt-out or Opt-in basis, as delineated in the CCA Framework Order. ~~Residential and small commercial consumers of electricity who receive Default Service from the Distribution Utility as of the Effective Date, or have been served by the program under the 202019-ESA and have not opted out, or "Newly Eligible Consumers" that subsequently become eligible to participate in the Program, at one or more locations within the geographic boundaries of the Municipality, except those consumers who receive Default Service and have requested not to have their account information shared by the Distribution Utility. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality and served by the Distribution Utility, as such boundaries exist on the Effective Date of this ESA.~~

- a.b. Default Product – The product selected by the Municipality for supply to its Eligible Customers upon enrollment, unless they take action to select a different product or opt out.
- b.c. Community Choice Aggregation Program or CCA Program or Program– A municipal energy procurement program, which replaces the incumbent utility as the default sSupplier for all Eligible Customers within the Participating Municipality, as defined in the PSC CCA Orders.
- e.d. Competitive Supplier: An entity duly authorized to conduct business in the State of New York as an energy service company (“ESCO”) that procures electric power for Eligible Customers in connection with this CCA Program.
- d.e. Compliant Bid: Electric power supply bid from a Competitive Supplier that meets the requirements specified in this MOU and the 20210 ESA. A Compliant Bid price must be inclusive of fees owed to Program Manager and be less than:
- i. Residential accounts: 8.70#7.##20 cents/kwh;
 - ii. Small commercial accounts: 8.70#7.##20 cents/kwh
- e.f. Distribution Utility: Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.
- f.g. Electric Service Agreement (“ESA”): An agreement that implements a CCA Program and contains all the terms and conditions of the Program.
- g.h. 202019 ESA: The ESA which implemented the Sustainable Westchester —CCA Program during the period from December 1, 2020May 1, 2019 to November 30, 20210.
- h.i. 20210 ESA: The ESA which will implement Sustainable Westchester CCA Program commencing December 1, 20210 for the NYSEG service territory. The 20210 ESA shall have substantially the same terms outlined in the attached 2021019 ESA Template (Attached as Exhibit 1). The 20210 ESA Template tracks as closely as possible to the 2020019 ESA in its content, with only minor clarifying changes to better align the 2021 ESA Template with the CCA Orders and the Program’s existing practices., with only minor changes regarding supplier data requirements, additional clarification regarding NY renewable energy certificate registration, provision for recovering any NYS subsidy for CCA purchase of renewable energy certificate if such subsidy comes into force after contract signing, and deletion of the optional time-of-use product.
- i.j. CCA Orders: Collectively, the February 26, 2015 “Order Granting Petition in Part” issued by the PSC in Case 14-M-0564; the April 21, 2016 “Order Authorizing Framework for Community Choice Aggregation Opt-out Program” issued by the PSC in Case 14-M-0224 (the “CCA Framework Order”), which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan.
- j.k. Qualifications Review: A verification of the status of the Competitive Supplier as an electricity supplier in the Distribution Utility’s service territory. A precondition for

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attaining such status is that Competitive Supplier has met the credit requirements established by the New York Independent Systems Operator .

- l. **Participating Municipality:** A dues-paying municipal member of Sustainable Westchester, which has adopted the applicable local legislation for the Community Choice Aggregation Program.
- m. **Participating Customers:** Eligible Customers enrolled in the Program, including Opt-out Eligible Customers who have been enrolled subsequent to the opt-out process and other customers who have opted in.
- k-n. **Opt-out Eligible Customers:** Eligible Customers that are eligible for Opt-out treatment as delineated in the CCA Framework Order. For the avoidance of doubt, Opt-out Eligible Customers shall not include customers that have previously opted-out of the Program.
- l-o. **Program Manager:** Sustainable Westchester, a non-profit corporation of which the Participating Municipality is a member.
- m-p. **Public Service Commission ("PSC"):** The New York State Public Service Commission or the New York State Department of Public Service acting as staff on behalf of the Public Service Commission .

3. Purpose: The purpose of the Memorandum of Understanding is as follows:

- a. To establish participation by ~~the Municipality (hereafter, the "Participating Municipality")~~ in a Community Choice Aggregation Program (hereafter, the "Program") that will be managed on its behalf by **Sustainable Westchester, (hereafter, the "Program Manager")** under the 20210 ESA.
- b. To affirm that the Participating Municipality and Program Manager agree to adhere to the terms and conditions of the 20210 ESA in the event they execute it.
- c. To affirm that the Participating Municipality and Program Manager agree to execute the 20210 ESA, subject to the conditions of review and approval outlined in 4(c) and 5(a), below.

4. Roles and responsibilities of the Program Manager: As Program Manager, Sustainable Westchester agrees to perform all duties outlined in the 20210 ESA and, prior to execution of that agreement, Program Manager agrees to:

- a. Provide the involved agencies and parties to the PSC CCA Orders, including, but not limited to, the Public Service Commission and Distribution Utility, requested information about and documentation of the actions undertaken by the Participating Municipality in furtherance of enabling participation in the Program;
- b. Manage the energy procurement bidding process including:
 - i. the identification and notification of potential firms seeking to be the Competitive Supplier,
 - ii. the management of the Request for Proposals ("RFP") process from preparation of the content to the publication of the RFP and management of firms responding to the RFP,
 - iii. the preparation of the 20210 ESA that will be included in the RFP,
 - iv. the acceptance, secure opening, and review of the responses to the RFP, and
 - v. the organization of the Qualifications Review and bid evaluation, all in a manner that is transparent to the Participating Municipality and firms seeking to be the Competitive Supplier,
- c. Sign the 20210 ESA in a timely fashion subject to the conditions that:

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- i. the Competitive Supplier is deemed qualified- for the duration of the 20210 ESA by the Qualifications –Review, and
- ii. such Competitive Supplier’s response to the RFP is deemed by the Program Manager to be a Compliant Bid as defined in Section 2 above.
- d. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager’s inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities.

5. Roles and responsibilities of the Participating Municipality: —the Participating Municipality agrees to:

- a. Sign the 20210 ESA in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed qualified for the duration of the 20210 ESA by the Qualifications Review, and
 - ii. such Competitive Supplier’s response to the RFP is deemed by the Program Manager to be a Compliant Bid as defined in Section 2 above.

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6. Term and Termination: This Memorandum of Understanding shall expire on the earlier of November 30, 20210 or the date on which the 20210 ESA is signed by the Participating Municipality, the Program Manager, and the selected Competitive Supplier. Participating Municipality shall have the right to terminate this Memorandum of Understanding for any of the reasons set forth in the Termination section of the ESA attached hereto as Exhibit 1.

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IN WITNESSETH WHEREOF, the Parties have signed this MEMORANDUM OF UNDERSTANDING on the day and year appearing below their respective signatures.

City/Town/Village of _____

Authorized Official Name and Title: _____

Signature: _____

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices: _____

Sustainable Westchester, Inc.

Authorized Official Name and Title: Nina Orville~~Steven Rosenthal~~, ~~Interim~~ Executive Director

Signature: _____

Address: 40 Green Street, Mount Kisco, NY 10549

CCA MOU 20210

20210-057-2406

Telephone(s): (914) 242-4725

E-Mail Address: ninasteve@sustainablewestchester.org

Address for Notices: 40 Green Street, Mount Kisco, NY 10549

Attachments: Exhibit 1, 20210 ESA Template (2021-07-12 ESA NYSEG.docx)

Electric Service Agreement

Exhibit 1 to accompany the Memorandum of Understanding
on Community Choice Aggregation
between local government members of Sustainable Westchester, [Supplier],
and Sustainable Westchester

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RECITALS

WHEREAS, Sustainable Westchester, Inc. sought approval of a demonstration community choice energy aggregation (“Community Choice”) program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to procure energy supply from an Energy Services Company for the residents of the municipalities;

WHEREAS, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first Community Choice pilot program in New York State;

WHEREAS, the PSC subsequently issued the order “Authorizing Framework for Community Choice Aggregation Opt-out Program” on April 21, 2016 (the “CCA Framework Order”) enabling Community Choice throughout New York State;

WHEREAS, the Westchester Community Choice Aggregation program (also known as Westchester Power) is intended to include residential and small non-residential customers, and to permit the aggregation of electric purchases by the communities which elect to participate;

WHEREAS, the City/Town/Village of _____ (“Municipality”) has adopted a Local Law to participate in the Sustainable Westchester Community Choice Program (“Program”) to aggregate customers located within the Municipality and to negotiate competitive rates for the supply of electricity for such customers;

WHEREAS, the program allows Municipality to solicit competitive bids for the supply of electricity individually or as part of a buying group with other municipal aggregators;

WHEREAS, Sustainable Westchester, Inc. has been authorized by the Municipality to act as Program Manager for a Community Choice Program, pursuant to Local Law and Memorandum of Understanding 2021, issue a request for proposals (“RFP”) to suppliers to provide energy to Participating Customers, and to award supply contracts;

WHEREAS, the Program executed the first electric service contracts in 2016 (the “2016 ESA”) with four municipalities in the Westchester New York State Electric and Gas (“NYSEG”) utility territory, and added one more municipality in 2018, and the most recent contracts expire on November 30, 2021;

WHEREAS, _____, an entity duly authorized to conduct business in the State of New York as an energy service company (“ESCO”) (the “Competitive Supplier”), desires to provide Full-Requirements Power Supply to customers located within the Municipality, pursuant to the terms and conditions of the Municipality's Program and this Electric Service Agreement (“ESA”);

WHEREAS, the Municipality desires that the Competitive Supplier provide Firm Full-Requirements Power Supply and Consolidated Billing as an alternative to Default Service for customers within the Municipality;

WHEREAS, Competitive Supplier is willing to provide two distinct electric supply products and two corresponding pricing levels, (1) a Standard Product and price, and (2) a 100% Renewable Clean Power Product comprised of the Standard Product plus New York Voluntary Clean Power RECs and price as set out in Exhibit A herein;

WHEREAS, Municipality has chosen the Standard Product / 100% Renewable Clean Power Product [select one and initial] as the Default Product for Participating Customers;

WHEREAS, Competitive Supplier agrees to pay a fee to Program Manager;

WHEREAS, Municipality prefers for Competitive Supplier to collect and remit the fees due the Program Manager;

WHEREAS, the local governments that participate in the Sustainable Westchester Community Choice Program, including this Municipality, intend that this Agreement be uniform in form and substance in each instance throughout the Program; and

NOW THEREFORE, IT IS AGREED THAT, Municipality, Program Manager, and the Competitive Supplier hereby enter into this ESA subject to the terms and conditions below.

ELECTRIC SERVICE AGREEMENT

ARTICLE 1 DEFINITIONS

Capitalized terms that are used but not defined in the body of this ESA, including the Exhibits hereto, shall be defined as set forth in this Article 1. Words defined in this Article 1 that are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.0 Associated Entities – Any and all of the employees, officers, agents, representatives, and independent contractors and subcontractors of the Competitive Supplier or of any of its corporate parents or subsidiaries, which provide goods or services to, or in any way assist, the Competitive Supplier in meeting its obligations under the ESA, but specifically excluding the Distribution Utility.

1.1 Bankruptcy - With respect to a Party, (i) such Party ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, provided that, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.2 CCA Orders – Collectively, the February 26, 2015 “Order Granting Petition in Part” issued by the PSC in Case 14-M-0564; the April 21, 2016 “Order Authorizing Framework for Community Choice Aggregation Opt-out Program” issued by the PSC in Case 14-M-0224 (the “CCA Framework Order”), which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan.

1.3 100% Renewable Clean Power Product - Firm Full-Requirements Power Supply matched with New York Voluntary Clean Power RECs (hydropower, solar energy or wind energy) as defined in, and subject to the Attribute delivery rules set forth in, the New York Generation Tracking System (“NYGATS”) Operating Rules, supporting the Public Service Commission’s Environmental Disclosure Program, as further described and defined in Pricing Exhibit A-2

1.4 Commercially Reasonable - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations, as defined in the Uniform Business Practices or without limitation in additional applicable law and regulations, provided that in no event shall increased costs or economic hardship be an excuse for not performing a Party’s obligations under this ESA.

1.5 Community Choice – Municipal electricity procurement program, purchasing supply for the aggregated demand for all Participating Customers within the Municipality.

1.6 Competitive Supplier or Energy Services Company (“ESCO”)– An entity duly authorized to conduct business in the State of New York as an ESCO.

1.7 Consolidated Billing - A billing option that provides Participating Customers with a single bill issued by the Distribution Utility combining delivery and supply charges from the Distribution Utility and Competitive Supplier respectively.

1.8 Default Product – The product selected by the Municipality for supply to its Participating Customers, unless they take action to select a different product or opt out..

1.9 Default Service – Supply service provided by the Distribution Utility to customers who are not currently receiving service from a Competitive Supplier. Residential and small commercial customers within the Municipality that receive Default Service, and have not opted out, will be enrolled in the Program as of the Effective Date.

1.10 Delivery Term - The period for which prices for Firm Full-Requirements Power Supply have been established, as set forth in Exhibit A.

1.11 Distribution Utility - Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Municipality.

1.12 Electronic Data Interchange (“EDI”) - The exchange of business data in a standardized format between business computer systems.

1.13 Effective Date - The day immediately following the initial 30-day period specified in the PSC Orders, which occurs after notifications to Eligible Customers, which occurs after this ESA

has been executed by the Parties (to be determined by the later date, if the Parties execute on different dates).

1.14 Eligible Customers – Customers of electricity and/or natural gas eligible to participate in the CCA Program, either on an Opt-out or Opt-in basis, as delineated in the CCA Framework Order. For the avoidance of doubt, all Eligible Customers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality and served by the Distribution Utility, as such boundaries exist on the Effective Date of this ESA.

1.15 ESA - This Electric Service Agreement.

1.16 Environmental Disclosure Label – The fuel mix purchased by an ESCO and the related emissions of those fuels compared to a statewide average, which is required to be reported under the DPS's Environmental Disclosure Program.

1.17 Federal Energy Regulatory Commission ("FERC") - The United States federal agency with jurisdiction over interstate electricity sales, wholesale electric rates, hydroelectric licensing, natural gas pricing, and oil pipeline rates.

1.18 Firm Full-Requirements Power Supply - The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply at a fixed contract price including all those components regardless of changes in kWh usage or customer grouping during the contract term to Participating Customers at the Point of Sale.

1.19 Force Majeure - Any cause not within the reasonable control of the affected Party which precludes that party from carrying out, in whole or in part, its obligations under this ESA, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes, lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Municipality may not be asserted as an event of Force Majeure by the Municipality; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil or industrial disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of any Party shall not constitute an event of Force Majeure.

1.20 General Communications - The type of communications described and defined in Article 5.7 herein.

1.21 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other

governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Municipality.

1.22 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.23 kWh, kW - Kilowatt-hour and kilowatt, respectively.

1.24 Local Law – A local law or ordinance, adopted by Municipality according to General Municipal Law, which authorizes Municipality to join the Sustainable Westchester Community Choice Program.

1.25 Memorandum of Understanding 2021 – Binding agreement between Municipality and Program Manager authorizing Sustainable Westchester to administer the Program.

1.26 Newly Opt-Out Eligible Customers – Residential and small commercial customers of electricity that become Opt-out Eligible Customers after the Effective Date, including those that move into Municipality and those who complete or terminate other 3rd party supply contracts and have returned to Default Service, provided these customers have not previously opted out of the Program.

1.27 New Taxes - Any taxes not in effect as of the Effective Date enacted by a Governmental Authority or the Municipality, to be effective after the Effective Date with respect to Firm Full-Requirements Power Supply, or any Governmental Rule enacted and effective after the Effective Date resulting in application of any existing tax for the first time to Participating Customers.

1.28 NYISO - The New York Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New York and the bulk transmission of electricity throughout the New York power grid.

1.29 Opt-out Eligible Customers - Eligible Customers that are eligible for Opt-out treatment as delineated in the CCA Framework Order. For the avoidance of doubt, Opt-out Eligible Customers shall not include customers that have previously opted-out of the Program.

1.30 Participating Customers - Eligible Customers enrolled in the Program, including Opt-out Eligible Customers who have been enrolled subsequent to the opt-out process and other customers who have been enrolled after opting in.

1.31 Parties - The Municipality, the Program Manager, and the Competitive Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.32 Point of Delivery - The boundary of the Distribution Utility's electricity franchise, or the point at which the Competitive Supplier delivers the power to the Distribution Utility.

1.33 Point of Sale - The electric meter for each Participating Customer's account, as designated by the Distribution Utility, such that all line loss costs are included in Competitive Supplier price to bring power to the meter.

1.34 Program - Sustainable Westchester Community Choice Aggregation Program.

1.35 Program Manager – Sustainable Westchester, Inc., a non-profit organization comprised of multiple municipalities in Westchester County of which the Municipality is a member, authorized by PSC to put out for bid the total amount of electricity being purchased by Participating Customers. Program Manager is responsible for Program organization, administration, procurement, and communications, unless otherwise specified.

1.36 PSC or DPS - The New York State Public Service Commission or the New York State Department of Public Service acting as Staff on behalf of the PSC, or any successor state agency.

1.37 Qualifying Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority at any time after Competitive Supplier submits its bid response to the RFP associated with this ESA, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation. To meet the threshold of being a Qualifying Regulatory Event, the impact of the event must impact the majority of customers in the same rate class, but not including a Regulatory Event that applies uniquely to Competitive Supplier. Notwithstanding anything to the contrary in this ESA or the RFP, any changes to the Purchase of Receivables (POR) approved by the PSC shall be deemed a Qualifying Regulatory Event hereunder.

1.38 Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation.

1.39 Retail Price - As set forth in Exhibit A.

1.40 Service Commencement Date - The date of the Participating Customers' first meter read date after the Effective Date, or as soon as necessary arrangements can be made with the Distribution Utility thereafter.

1.41 Standard Product – Traditional generation mix, meeting the minimum Renewable Portfolio Standards for electric power established by New York State.

1.42 Term - As defined in Article 4.1.

1.43 Uniform Business Practices – Regulations governing the business practices of utilities and Energy Services Companies with regards to service, billing, marketing, data, and customer rights, issued by the New York State Public Service Commission (Case 98-M-1343).

ARTICLE 2 RIGHTS GRANTED

2.1 GENERAL DESCRIPTION AND LIMITATIONS

Competitive Supplier is hereby granted the exclusive right to be the default provider of Firm Full-Requirements Power Supply to Participating Customers pursuant to the terms of this ESA. For the avoidance of doubt, Competitive Supplier shall be authorized to supply Firm Full-Requirements Power Supply only to Participating Customers enrolled in the plan or plans managed by the Program Manager, and the Distribution Utility will continue to have the right and obligation to supply electricity to Eligible Customers who opt-out of the Program and remain on, or return to, Default Service, until changes in law, regulation or policy may allow otherwise.

In accordance with Article 3 below, all Opt-out Eligible Customers shall be automatically enrolled in the Program unless they choose to opt-out or have previously opted out of the Program. In the event the geographic boundaries of the Municipality change during the term of this ESA, Competitive Supplier shall only be obligated to supply Firm Full-Requirements Service to those Participating Customers located within the Municipality as such boundaries existed on the Effective Date of this ESA. As between the Parties, the Competitive Supplier has the sole obligation of making appropriate arrangements with the Distribution Utility, and any arrangements which may be necessary with the NYISO so that Participating Customers receive the electricity supplies to be delivered pursuant to this ESA.

The Municipality shall specifically authorize the Distribution Utility to provide, and Competitive Supplier the right to obtain and utilize as required, all billing and energy consumption information for Participating Customers as is reasonably available from the Distribution Utility. The Distribution Utility Fees for the provision of this data shall be paid for by the Supplier. Competitive Supplier shall request consumption data for individual Participating Customers from the Distribution Utility via EDI. If further action is required by the Distribution Utility to authorize Competitive Supplier to receive such consumption and billing data, the Program Manager, on behalf of the Municipality agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier, if so requested by it, in obtaining such information for Participating Customers, including, without limitation, assisting Competitive Supplier in obtaining permission from such Participating Customers and/or the PSC, where necessary as a prerequisite to the provision of such information. Competitive Supplier shall not be responsible for any errors that Competitive Supplier or any of its Associated Entities makes in the provision of Firm Full-Requirements Power Supply only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

2.2 NO THIRD PARTY BENEFICIARIES

Except as specifically provided in Section 18.11, this ESA does not and is not intended to confer any rights or remedies upon any person other than the Parties. This ESA facilitates rights under the CCA Orders and Local Law for Eligible Customers to purchase electricity from the Competitive Supplier in accordance with this ESA. The Municipality, or Program Manager in support of the Municipality, has the right, but not the obligation, to advocate on behalf of the Eligible Customers interested in contracting for electric supply and on behalf of all Participating Customers, unless otherwise prevented by law.

2.3 COMPLIANCE WITH LAWS

The Municipality represents that the Local Law has been duly adopted.

Competitive Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations, requirements, and orders of the FERC, NYISO, and PSC.

2.4 CONDITIONS PRECEDENT

The Municipality's obligations under this ESA shall be conditioned upon the Competitive Supplier fulfilling the following requirements:

- a) maintain Competitive Supplier's license from PSC (as such term is defined in the Local Distribution Utility's Terms and Conditions for Competitive Suppliers);
- b) execute any appropriate NYISO applications and agreements;
- c) obtain authorization from the FERC to sell power at market-based rates;
- d) complete EDI testing with Distribution Utility;
- e) provide all other documentation required by the Distribution Utility; and
- f) satisfying all insurance requirements set forth in Article 16 or elsewhere in this ESA.

If Competitive Supplier has not fulfilled all such requirements by the Effective Date, then the Municipality may terminate this ESA without any liability from Municipality to the Competitive Supplier.

2.5 OWNERSHIP AND USE OF ELIGIBLE CUSTOMER DATA

Competitive Supplier acknowledges that: 1) all Eligible Customer data (including addresses, telephone numbers or other identifying information) made available to Competitive Supplier as an agent of Municipality for such data must be protected by the Competitive Supplier and its Associated Entities to the fullest extent possible under the law; 2) the Competitive Supplier does not hold any permanent right, title or interest in this data; and 3) this data is to be obtained, retained and used by the Competitive Supplier and its Associated Entities solely to provide Firm Full-Requirements Power Supply to Participating Customers and to render other services expressly required or permitted under this ESA. Any other use of Eligible Customer data without the prior written consent of the Municipality is strictly prohibited. Competitive Supplier may

share such Eligible Customer data with third-party vendors as reasonably necessary to accommodate Competitive Supplier's provision of Firm Full-Requirements Power Supply or other performance pursuant to this ESA (including, without limitation, collection of receivables or enhancement of data exchange between the Parties), provided that Competitive Supplier will take reasonable measures to secure the confidential nature of such data and the restrictions set forth in this Article 2.5 and elsewhere in this ESA, and that any vendor or subcontractor is also bound by the terms and conditions of this ESA, especially those regarding data confidentiality and prohibition on non-permitted uses of data through a signed non-disclosure agreement, a copy of which will be provided to the Municipality. Except as expressly provided in this ESA, and as otherwise permitted by law, Competitive Supplier and its Associated Entities shall not disclose any Eligible Customer data to any third-party and Competitive Supplier and its Associated Entities shall take all Commercially Reasonable measures to protect Eligible Customer data from access by, or beneficial use for, any third-party. To the extent that the provision of Firm Full-Requirements Power Supply or other services under this ESA requires that Competitive Supplier and its Associated Entities have access to or make use of any Eligible Customer data, Competitive Supplier and its Associated Entities shall treat such Eligible Customer data as confidential information. Competitive Supplier may use Eligible Customer data to engage in direct marketing only during the term of this ESA and subject to the terms set forth in Article 18.2. A violation of this Article 2.5 shall be grounds for termination under Article 4.2(a). Competitive Supplier agrees violation of this Article 2.5 shall constitute irreparable harm.

ARTICLE 3 CUSTOMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT

3.1 CUSTOMER CHOICE

The Parties acknowledge and agree that all Participating Customers have the right, pursuant to CCA Orders, Local Law, and the Program, to change their source of electricity supply, as set forth in Article 2.1. The Parties represent and warrant to each other that they shall not interfere with the right of Participating Customers to opt-out of the Program, and shall comply with any rules, regulations or policies of PSC, the Distribution Utility and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Not inconsistent with the above, however, the Parties may take Commercially Reasonable measures to encourage Participating Customers to affirmatively agree to remain in the Program, consistent with any Governmental Rules.

3.2 NOTIFICATION TO NEWLY OPT-OUT ELIGIBLE CUSTOMERS OF OPT-OUT RIGHTS

Consistent with the requirements of any applicable Governmental Rules, and within a reasonable time after the Distribution Utility notifies Competitive Supplier of the existence of a Newly Opt-out Eligible Customer and has provided to Competitive Supplier such Newly Opt-out Eligible Customer's account number, service and billing address, and other pertinent contact information, Competitive Supplier shall notify such Newly Opt-out Eligible Customer (i) of the date on which such Newly Opt-out Eligible Customer will be automatically enrolled in the Program, and (ii) that the Competitive Supplier will be providing Firm Full-Requirements Power Supply to such Newly Opt-out Eligible Customer as of the same date, subject to the opt-out provisions of the

PSC Orders, Local Law, and the Program ("Opt-Out Notice"). The Opt-Out Notice shall be mailed to each such Newly Opt-out Eligible Customer prior to the date of automatic enrollment and shall: (i) prominently state all charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in Exhibit A; (iii) state how such Newly Opt-out Eligible Customer may opt-out of the Program prior to enrollment and remain on Default Service from the Distribution Utility; and (iv) state how all Participating Customers, subsequent to enrollment, will also have the right to opt-out at any time and return to Default Service or choose a new Competitive Supplier without paying a fee or penalty to Competitive Supplier. All such notices must be approved in advance by the Municipality.

In providing the notifications set forth in this Article 3.2, and in otherwise conducting the activities in Article 3.4 below, the Competitive Supplier must rely upon information provided to it by the Distribution Utility for the purpose of performing its obligations. Competitive Supplier will not be responsible for any errors in connection with notification of Eligible Customers only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

3.3 CUSTOMER AWARENESS

Upon mutual agreement concerning the content and method, either the Competitive Supplier, Municipality, or Program Manager may conduct customer awareness efforts at its sole expense.

3.4 ENROLLMENT

3.4.1 Participating Customers –All Opt-out Eligible Customers as of the Effective Date will be enrolled in the Program, thus becoming Participating Customers, under the terms of this ESA unless they opt-out during the 30-day period specified in the PSC Orders. Participating Customers may disenroll from the Program at any time thereafter with no fee or penalty. The Municipality shall authorize the Distribution Utility to provide to Competitive Supplier or to an alternative designee of the Program Manager who has agreed in writing to a non-disclosure agreement, a copy of which will be provided to the Municipality, a list of Participating Customers as of the Effective Date, as well as such Participating Customer's service and billing addresses, and any other information necessary for Competitive Supplier to commence Firm Full-Requirements Power Supply to such Participating Customers as of the Service Commencement Date.

3.4.2 Newly Opt-out Eligible Customers - If Newly Opt-out Eligible Customers elect not to opt-out of the Program as provided in Article 3.2, such Newly Opt-out Eligible Customers will be automatically enrolled by Competitive Supplier in the Program. These Newly Opt-out Eligible Customers electing not to opt out of the Program as provided in Article 3.2 shall be enrolled in the Program at a price as defined in Exhibit A. For the avoidance of doubt, Participating Customers that have opted into the Program shall also be enrolled in the Program at a price as defined in Exhibit A. Competitive Supplier shall enroll such Newly Opt-out Eligible Customers in accordance with applicable PSC and Distribution Utility rules.

3.4.3 Eligible Customers Who Have Previously Opted Out - At any time during this ESA, Eligible Customers who have previously opted out of the Program may request that they be enrolled or re-enrolled in the Program. Competitive Supplier shall provide Firm Full-Requirements Power Supply to such Eligible Customers at a price as set forth in Exhibit A. Following mutually agreed upon procedures, the Competitive Supplier is responsible for accurately and promptly transmitting information regarding Eligible Customers, to the Distribution Utility. The Competitive Supplier shall be responsible for enrolling all Eligible Customers through EDI transactions submitted to the Distribution Utility for initial enrollment in the aggregation and all enrollments thereafter.

3.4.4 Customers Served by Third-Parties - Customers being served under other competitive supply programs offered by third-parties will not be automatically enrolled as Participating Customers under this ESA until such program terminates or is otherwise completed. Competitive Supplier agrees that customers under such third-party competitive supply programs may affirmatively opt-in at any time and receive Firm Full-Requirements Power Supply, thereby becoming Participating Customers. Competitive Supplier further agrees that customers being served under other competitive supply programs that terminate or are otherwise completed become Newly Opt-out Eligible Customers and may be automatically enrolled as Participating Customers under the CCA Orders. Newly Eligible Customers who opt-in as provided in this Article 3.4.4 or who enroll following the termination or completion of another competitive supply program offered by a third party shall be enrolled in the Program at the rates reflected in Exhibit A.

3.4.5 Termination Fees. There shall be no termination fees for any residential, small commercial, or municipal Participating Customers to disenroll from the Program.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 TERM

This ESA shall commence on the Effective Date, provided, however, that Competitive Supplier's obligation to provide Firm Full-Requirements Power Supply shall commence on the Service Commencement Date, and shall cease as delineated in Exhibit A, unless this ESA is terminated earlier under Article 4.2 below ("Term"). Term shall not exceed 36 months.

4.2 TERMINATION

This ESA may be terminated at any time upon written notice:

a) by the Municipality, or the Competitive Supplier, if the other Party fails to remedy or cure any breach of any material provision or condition of this ESA (including, but not limited to, Article 2.5 and Article 9), but excluding the failure to provide or arrange for Firm Full-Requirements Power Supply, which is addressed in Article 4.2(d)), within sixty (60) days following written notice to do so by the non-breaching party; or

- b) by the Municipality, or the Competitive Supplier, if any material provision or condition of this ESA be finally adjudged invalid by any court of competent jurisdiction, or if PSC exercises any lawful jurisdiction so as to invalidate or disapprove this ESA in whole or in significant part; or
- c) by the Municipality, if a Regulatory Event that is not a Qualifying Regulatory Event affects the Competitive Supplier and Competitive Supplier incurs costs and chooses to allocate and collect excess costs from Participating Customers; or
- d) by the Municipality, if a court, PSC or other lawful authority adjudicates contrary to Article 6; or
- e) by the Municipality, i) if an order is entered against the Competitive Supplier approving a petition for an arrangement, liquidation, dissolution or similar relief relating to Bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (ii) immediately if the Competitive Supplier shall file a voluntary petition in Bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to Bankruptcy, insolvency or other relief for debtors or shall seek, consent to, or acquiesce in appointment of any trustee, receiver, or liquidation of any of Competitive Supplier's property; or
- f) notwithstanding the foregoing, the failure of Competitive Supplier to provide or arrange for Firm Full-Requirements Power Supply to Participating Customers, in the absence of Force Majeure or the Municipality's failure to perform, shall constitute an act of default, and the Municipality may terminate this ESA upon giving written notice and without a cure period. In the event the Competitive Supplier has performed its obligations hereunder and its failure to arrange for or provide Firm Full-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Utility, or the NYISO, the Competitive Supplier's failure shall not be deemed to be an act of immediate default and would be subject to remedy or cure as provided in Article 4.2(a).

4.3 OBLIGATIONS UPON TERMINATION

Following termination of this ESA, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the ESA and Competitive Supplier shall continue to have the right to collect all monies due for services rendered to that date.

Upon termination, Competitive Supplier shall have all Participating Customers switched back to obtaining supply from the Distribution Utility by submitting all customer drops via EDI to the Distribution Utility in a form acceptable to the Distribution Utility.

4.4 EXTENSION

The ESA may be extended beyond the termination date established in Article 4.1 by mutual, written agreement of the Parties. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A Extension. Upon any such extension, this ESA shall continue to be in effect, and all provisions of the ESA shall retain the same force and effect as before the extension, unless it is terminated by any Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

ARTICLE 5 CONTINUING COVENANTS

The Competitive Supplier agrees and covenants to perform each of the following obligations during the term of this ESA.

5.1 STANDARDS OF MANAGEMENT AND OPERATIONS

In performing its obligations hereunder, during the term of this ESA, the Competitive Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers or arranges to deliver an uninterrupted supply of such amounts of electricity to the Point of Delivery as are required under this ESA; that it complies with all relevant industry standards and practices for the supply of electricity to Participating Customers; and that, at all times with respect to Participating Customers, it exercises good practice for a Competitive Supplier and employs all Commercially Reasonable skills, systems and methods available.

5.2 CUSTOMER SERVICE ACCESS

The Competitive Supplier agrees to provide, or cause to be provided, certain customer services to Participating Customers. Such services shall be reasonably accessible to all Participating Customers, shall be available during normal working hours, shall allow Participating Customers to transact business they may have with the Competitive Supplier, and shall serve as a communications liaison among the Competitive Supplier, the Municipality, and the Distribution Utility. A toll-free telephone number will be established by Competitive Supplier and be available for Participating Customers to contact Competitive Supplier during normal business hours (9:00 A.M.- 5:00 P.M. Eastern Time, Monday through Friday) to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier. To the extent practicable, the Municipality will post program-related information on the Municipality's website which will be available to Participating Customers for general information, comparative pricing, product, and service information, and other purposes.

5.3 RESPONDING TO REQUESTS FOR INFORMATION

To the extent authorized by the Participating Customer(s) and to the extent such individual permission is required by law, the Competitive Supplier shall, during normal business hours (as set forth above), respond promptly and without charge therefore to reasonable requests of the Municipality for information or explanation regarding the matters covered by this ESA and the supply of electricity to Participating Customers. Competitive Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contacts shall call upon other employees or agents of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Participating Customers, or to comply with any regulation of PSC regarding customer service.

5.4 ARRANGING FOR FIRM FULL-REQUIREMENTS POWER SUPPLY

Competitive Supplier shall participate in or make appropriate arrangements with NYISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of Firm Full-Requirements Power Supply to the Distribution Utility for delivery to Participating Customers, and exercise all Commercially Reasonable efforts to cooperate with NYISO or any other entity to ensure a source of back-up power in the event that Competitive Supplier is unable to deliver Firm Full-Requirements Power Supply to the Point of Delivery. In the event the Competitive Supplier is unable to deliver sufficient electricity to the grid to serve Participating Customers, the Competitive Supplier shall utilize such arrangements and exercise all Commercially Reasonable efforts as may be necessary to continue to serve Participating Customers under the terms of this ESA, and shall bear any costs it may incur in carrying out these efforts and obligations. Competitive Supplier shall not be responsible to the Municipality or any Participating Customers in the event that, through no fault of the Competitive Supplier or its Associated Entities, the Distribution Utility disconnects, curtails or reduces service to Participating Customers (notwithstanding whether such disconnection is directed by NYISO).

5.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to the Point of Delivery to all Participating Customers on a non-discriminatory basis; provided, however, that those prices and other terms may vary in accordance with reasonably established rate classifications (e.g., residential and small commercial) or by such other categories as appear in Exhibit A. To the extent applicable, Competitive Supplier's prices, terms and conditions shall be in accordance with the New York General Laws, the regulations of PSC, and other applicable provision of law. To the extent required by law and/or the conditions of any PSC approval of this ESA, the Competitive Supplier may not deny service to an Eligible or Participating Customer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon any Participating Customer's failure to pay bills from the Competitive Supplier, subject to any provisions of law or applicable PSC orders or regulations. Provision of electric energy supply shall be subject to Competitive Supplier's Standard Credit Policy, to the extent permitted by law, as described in Exhibit A.

In any event, should either Program Manager or Municipality actively achieve and document (e.g. to the satisfaction of the New York State Public Service Commission and the Utility) reduction in capacity tag buying obligations, Competitive Supplier will pay or distribute benefits from these tag reductions to Participating Customers at the NYISO strip clearing price for the appropriate zone (i.e., H, upper Westchester or I, lower Westchester), in which the capacity tag reduction is certified by appropriate party. Program Manager agrees it does not intend to pursue any actions that would increase the capacity tag obligation to Competitive Supplier.

5.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with the Municipality in the drafting and sending of messages and information to Eligible or Participating Customers concerning the Program or any matter arising under or related to this ESA. Competitive Supplier shall, prior to sending, whether directly or through its Associated Entities, any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Eligible or Participating Customers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual customer), provide a copy of such General Communication to the Municipality and to Program Manager for its review to determine whether it is consistent with the purposes and goals of the Municipality and Program Manager. The Municipality or Program Manager shall have the right to disapprove such General Communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Municipality, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Municipality and Program Manager fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; or (b) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) above shall require approval. If the Municipality objects to any General Communication on the grounds it is inconsistent with the purposes and goals of the Municipality, the Competitive Supplier, after consultation as provided in this Article 5.6, may nevertheless elect to send such General Communication provided that it: (i) clearly indicates on such communication that it has not been endorsed by the Municipality, and (ii) has previously provided all Participating Customers a meaningful chance to opt not to receive such General Communications. The Municipality may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Municipality, provided, however, any such right of rejection or exclusion shall not apply to Competitive Supplier's notice to exercise or enforce its rights under the ESA or Customer Agreement, including but not limited to any notice of Force Majeure or Change in Law.

5.7 COMMUNICATION OF INSERTS AND MESSAGES

Competitive Supplier shall, at its expense, print and mail one letter or postcard per year to all active Participating Customers, the design of which shall be determined by the Municipality or Program Manager.

In addition, Competitive Supplier agrees that if it communicates with Participating Customers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Municipality or Program Manager to include no less than three (3) inserts per year into such communications, provided that the Program Manager or Municipality, where appropriate pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Competitive Supplier may incur as a result of including such insert. Competitive Supplier shall have the right to disapprove such General Communications (that is communications other than those pertaining to the Municipality's demand-side management, energy efficiency programs and technology, and renewable energy programs, if applicable) and suggest revisions if it finds the communication inconsistent with its business interests, factually inaccurate or likely

to mislead; provided, however: (i) that the communication shall be deemed approved if the Competitive Supplier fails to respond within seven (7) calendar days after receipt (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication which has been ordered by PSC or any other Governmental Authority to be so communicated. Competitive Supplier shall notify Program Manager at least two (2) weeks before a direct communication to Participating Customers is to be mailed. Program Manager shall provide Program General Communications insert file within seven (7) calendar days of receiving such notice.

Competitive Supplier agrees to allow and facilitate the Program Manager to utilize the supplier messages area of the bill for Program communications.

5.8 PARTICIPATING CUSTOMER LISTS

To the extent not prohibited by any Governmental Rule or expressly by any Participating Customer(s), the Competitive Supplier shall, upon request of the Municipality or of Program Manager, provide aggregate consumption information as the Municipality or Program Manager may request to the extent such information is available to Competitive Supplier. Competitive Supplier shall provide Participating Customer lists in an electronic format, secure transfer mode, frequency and format as set out in Exhibit D, subject to non-disclosure agreement for customers who have not requested that their personal information be denied to Program Manager or to Municipality.

5.9 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this ESA.

5.10 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier requests the Municipality's assistance in obtaining such consent or approval and the Municipality anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine whether it will continue to request the Municipality's assistance, and if so, the Competitive Supplier shall reimburse the Municipality for all costs, up to the estimated dollar amount, reasonably incurred by the Municipality in connection with such efforts.

ARTICLE 6 ROLE OF THE MUNICIPALITY

Under this ESA, the Municipality shall not actually receive, take title to, or be liable for the supply or delivery of Firm Full-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Municipality is established under the PSC Orders and Local Law and may include negotiating the terms and conditions under which Firm Full-

Requirements Power Supply will be provided by the Competitive Supplier under this ESA. It is the sole obligation of the Competitive Supplier to arrange for delivery of Firm Full-Requirements Power Supply to Participating Customers. The Parties agree that, with regards to electricity, Municipality is not a “public utility company” or providing any “public utility service” within the meaning of GML 360 and Article 4 of Public Service Law as a result of this ESA. Should a court, PSC, or other lawful authority adjudicate to the contrary, the provisions of 4.2 a) shall apply. However, the Municipality may be considered to be operating a municipal load aggregation plan pursuant to the PSC Orders and Local Law. The Competitive Supplier hereby agrees that it will take no action, whether directly or through its Associated Entities, that would make the Municipality liable to any Participating Customer due to any act or failure to act on the part of the Competitive Supplier or its Associated Entities relating to the delivery or supply of Firm Full-Requirements Power Supply.

Municipality may conduct outreach to the community in addition to the initial program notification letter, which will be delivered at the Competitive Supplier’s expense, with a Business Reply Mail insert to allow Eligible Customer to opt out without postage expense. Municipality will report on their endeavors to Program Manager to inform residents on the Program and “non-demand charge” commercial businesses. In case of any doubt, Municipality shall retain final control of content related to all communications.

ARTICLE 7 ROLE OF PROGRAM MANAGER

7.1 PROGRAM MANAGER DUTIES

Sustainable Westchester Inc, as Program Manager, agrees to:

- a. Provide the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, requested information about and documentation of the actions undertaken by the Municipality in furtherance of enabling participation in the Program;
- b. Prepare, or cause to be prepared, and provide the Municipality with requested and non-confidential information that the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, provide to the Program Manager in furtherance of establishing the Program;
- c. Upon execution hereof, initiate all the necessary steps to secure the needed information to fulfill the customer notification requirements of the PSC Orders, including but not limited to the following:

Agreeing to protect that information consistent with the discussion in the body of this Order, and shall submit their agreement to Department of Public Service Staff at the time the letter certifying authorization discussed in the body of this Order is submitted.

In addition, Program Manager will file any Requests for Proposals, or Requests for Information, and similar documents, as well as any contracts entered into for energy supply, at the time they are issued.

- d. Sign the ESA in a timely fashion including the conditions that the Competitive Supplier is verified to be a qualified electricity supplier by the NYISO in the Distribution Utility’s

- service territory and the Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed compliant with the terms and conditions set forth in the ESA;
- e. Provide the Municipality with timely communications content to implement customer notification requirements for approval, not to be unreasonably withheld, given the projected schedule of Program's implementation;
 - f. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager's inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities; and
 - g. Fulfill any other responsibilities as set forth in this agreement herein.

7.2 PROGRAM MANAGER FEE

Competitive Supplier shall pay Program Manager \$0.001 for each kWh delivered, invoiced and paid for by Participating Customers during the Term ("Program Manager Fee" or "Fee"). The Parties agree that Competitive Supplier will remit the Program Manager Fee to the Program Manager, pursuant to the terms of this ESA. Competitive Supplier shall pass through such payments to Sustainable Westchester, Inc. for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

7.3 PAYMENT OF FEE

Payment to Program Manager will be made monthly by Automated Clearing House ("ACH") (an electronic network for financial transactions) to the account set forth in Exhibit C hereto, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Customers. The Program Manager Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Customer during the calendar month two months prior. For example, full payments received in January will be paid by the end of March. If Competitive Supplier has paid a past Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due under this ESA and provide explanation of the error in sufficient detail.

Program Manager shall provide the Municipality with a reasonably detailed accounting not less than annually of the program impact, financial and other, including revenues received and expenses incurred on communication, administration and legal expenses.

7.4 INDEPENDENT CONTRACTOR

The Parties agree that Program Manager is not an agent or employee of Competitive Supplier for any purpose. All expenses which are incurred by Program Manager in connection with this ESA shall be borne wholly and completely by Program Manager. Program Manager shall be responsible for all state, federal, and local taxes, including estimated taxes and social security and employment reporting for Program Manager or any employees or agents of Program Manager.

7.5 AUCTION SERVICE FEE

Competitive Supplier shall pay the auction service company, Transparent Energy (“Auction Service Company”), \$0.0001 for each kWh delivered, invoiced and paid for by Participating Customers during the Term (“Auction Service Fee”). The Parties agree that Competitive Supplier will remit the Auction Service Fee to the Program Manager for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

Payment to the Auction Service Company shall be made monthly by ACH to the account indicated by the Auction Service Company, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Customers.

The Auction Service Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Customers during the calendar month two months prior. For example, for full payments received from Participating Customers in January the Auction Service Fee associated with those payments will be paid by the end of March. If Competitive Supplier has paid a past Auction Service Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due to the Auction Service Company and provide a sufficiently detailed explanation of the error.

ARTICLE 8 PRICES AND SERVICES; BILLING

8.1 SCHEDULE OF PRICES AND TERMS

Competitive Supplier agrees to provide Firm Full-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this ESA, which Exhibit is hereby incorporated by reference into this ESA.

8.2 OBLIGATION TO SERVE

As between the Parties, Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide Firm Full-Requirements Power Supply for all of the Participating Customers under the Program. Competitive Supplier, except as explicitly limited by the terms included in Exhibit A, shall be obligated to accept all Participating Customers, regardless of their location or energy needs provided such Participating Customers are eligible under the applicable regulations and tariffs of the Distribution Utility.

8.3 METERING

The Distribution Utility will be responsible for any metering which may be required to bill Participating Customers in accordance with the Distribution Utility's Terms and Conditions for Competitive Suppliers.

8.4 TERMS AND CONDITIONS PERTAINING TO INDIVIDUAL ACCOUNT SERVICE

8.4.1 Title

Title to Firm Full-Requirements Power Supply will transfer from Competitive Supplier to Participating Customers at the Point of Sale. In accordance with the Distribution Utility's Terms and Conditions for Competitive Suppliers, the Competitive Supplier will be responsible for any and all losses incurred on the local network transmission systems and distribution systems, as determined by the Distribution Utility.

8.4.2 Billing and Payment

Unless otherwise specified in an Exhibit to this ESA, all billing under this ESA shall be based on the meter readings of each Participating Customer's meter(s) performed by the Distribution Utility. Competitive Supplier shall cause the Distribution Utility to prepare and mail bills to Participating Customers monthly. The Competitive Supplier shall adopt the billing and payment terms offered by the Distribution Utility to its Eligible Customers on Default Service. If actual meter date is unavailable, the Competitive Supplier may cause the Distribution Utility to bill based on its good faith estimates of usage. Any overcharge or under-charge will be accounted for in the next billing period for which actual meter data is available.

8.4.3 Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Utility under its distribution service tariff or local transmission costs as may be imposed by NYISO or individual electric utilities that have FERC transmission tariffs. The Competitive Supplier understands that these costs will be collected by the Distribution Utility. If, in the future, Competitive Supplier becomes responsible for such distribution or transmission costs, Competitive Supplier shall be entitled to collect such costs from Participating Customers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

8.4.4 Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of Firm Full-Requirements Power Supply required to be collected by the Competitive Supplier shall be included on the Participating Customer's bill and shall be remitted to the appropriate taxing authority by Competitive Supplier. For avoidance of doubt, it is understood that the Competitive Supplier shall include gross receipts tax in its preparation of Participating Customers' bills. Participating Customers shall be responsible for all taxes that are customarily imposed upon a purchaser of electricity and are associated with electricity consumption under the ESA. Participating Customers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier. For avoidance of doubt, Competitive Supplier shall be responsible for all taxes imposed upon it as a supplier of electricity, including taxes on Competitive Supplier's income.

ARTICLE 9 COMPLIANCE WITH THE PSC ORDERS

Competitive Supplier agrees that it, and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA, will comply with the applicable provisions of the PSC Orders and any regulations, orders or policies adopted pursuant thereto.

ARTICLE 10 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS

10.1 UNIFORM BUSINESS PRACTICES COMPLIANCE

Competitive Supplier agrees that it and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA shall comply with the provisions of the Uniform Business Practices, as applicable to Competitive Suppliers, and any amendments thereto, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program. In addition, the Competitive Supplier and its Associated Entities agrees to comply with any code of conduct or policies the PSC may adopt in accordance with the PSC Orders and to all related Orders of Case 14-M-0564 and 14-M-0224 to which the Program Manager is required to adhere, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program.

10.2 DESCRIPTION OF SUPPLIER'S PROCEDURES AND SERVICES

The Competitive Supplier shall, on or before the Effective Date, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Municipality (which approval shall not be unreasonably withheld). Such written description shall also include the Competitive Supplier's plans for protecting the rights and protections of Participating Customers under the Home Energy Fair Practices Act which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. If the Participating Customer(s) so permit(s) or to the extent such permission is required by law or the terms of any PSC order with respect to this ESA, the Competitive Supplier agrees to provide notice to the Municipality of any customer complaints received from a Participating Customer, and the Municipality shall have the right, but not the obligation, to participate in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by PSC regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with PSC regulations and policies, shall be deemed grounds for termination of this ESA, at the discretion of the Municipality after providing written notice of such failure to the Competitive Supplier and allowing the Competitive Supplier sixty (60) days to cure such failure.

10.3 DISPUTE RESOLUTION

In accordance with the Uniform Business Practices, in the event of a dispute regarding an invoice or Competitive Supplier's service, whether directly or through its Associated Entities, under this ESA, a Participating Customer may initiate a formal dispute resolution process by providing written notice to the PSC. The PSC will assist the Parties in reaching a mutually acceptable

resolution. If no such resolution is reached within 40 calendar days of receipt of the formal written notice, any Party may request an initial decision from PSC. Parties may appeal this decision.

ARTICLE 11 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Competitive Supplier agrees that it shall conduct its operations and activities under this ESA in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees, and will require all Associated Entities to do the same.

ARTICLE 12 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

12.1 POWER SUPPLY INFORMATION

12.1.1 Monthly Report of Sales

Competitive Supplier shall provide the Municipality or its agent with the following monthly reports as shown on Exhibit B attached hereto within 30 days of the end of the month:

1. kWh and counts disaggregated by municipality, utility zone, customer type, rate class, product
2. Add-Drop report with count of transactions for drop categories Moved, Changed Supplier, Opt-out, Other, and add categories of Opt-in and Newly Eligible.

All reports provided under this 12.1 shall be provided in electronic format.

12.1.2 Customer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain customer-related data in electronic form including utility account number, billing name, billing address, service address historical usage, demand, and ICAP (Installed Capacity) data. A violation of this Article 12.1.2 shall be grounds for termination under Article 4.2(a) unless such violation is due to a system or reasonable administrative error and the Competitive Supplier demonstrates to the Municipality's satisfaction that such system or administrative error exists and that the Competitive Supplier is acting in good faith to resolve such issue.

12.1.3 Standard of Care

Competitive Supplier and its Associated Entities shall use all Commercially Reasonable efforts in preparing and providing any information or data required under the ESA. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall provide corrections to such information or data to the Municipality or its agent within a Commercially Reasonable time.

12.2 POWER SUPPLY REPORT

Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Labels in the State of New York, including, once finalized by the PSC and/or the New York State Energy Research and Development Authority and available to Competitive Supplier, the creation of separate labels to reflect renewable CCA products within the Competitive Supplier's portfolio, as well as individual municipal renewable purchases within the CCA program.

Unless the Environmental Disclosure Label requirement is waived by PSC, within fifteen (15) days of the end of the quarter, Competitive Supplier shall present a copy of the current Environmental Disclosure Label required by the PSC of all Competitive Suppliers to be disclosed to their Participating Customers, which includes information pertaining to Competitive Supplier's power supply and a reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating Customers pursuant to this ESA, except to the extent such disclosure would violate any confidentiality obligations of Competitive Supplier.

12.3 BOOKS AND RECORDS

Competitive Supplier shall keep their books and records in accordance with any applicable regulations or guidelines of PSC, FERC, and any other Governmental Authority. The Municipality will have electronic access to any reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Municipality and at the Municipality's reasonable expense, Competitive Supplier or its Associated Entities shall provide reasonable back up for any charge under this ESA questioned by the Municipality.

12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Municipality a copy of each public periodic or incident-related report or record relating to this ESA which it files with any New York or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Competitive Supplier is required by law or regulation to keep such reports confidential. Competitive Supplier shall be reimbursed its reasonable costs of providing such copies, if only available in hard copy.

ARTICLE 13 RESOLUTION OF DISPUTES; CHOICE OF LAW AND FORUM

13.1 CHOICE OF LAW AND FORUM

This ESA and the rights of the Parties shall be interpreted and determined in accordance with the laws of the State of New York without respect to conflicts-of-laws principles. Any litigation arising hereunder shall be brought solely in the appropriate federal court in New York or appropriate state court sitting in the New York county in which the Municipality is located, to whose jurisdiction the Parties hereby assent, waiving all objections to venue or forum.

13.2 DISPUTE RESOLUTION

Unless otherwise provided for in this ESA, the dispute resolution procedures of this Article 13.2 shall be the exclusive mechanism to resolve disputes arising under this ESA. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this ESA. Any dispute that arises under or with respect to this ESA that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties may seek judicial enforcement subject to the provisions of this ESA. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this ESA.

ARTICLE 14 INDEMNIFICATION

14.1 INDEMNIFICATION BY THE COMPETITIVE SUPPLIER

In addition to any other remedies available to the Municipality at law or equity, and notwithstanding any other provision contained herein, the Competitive Supplier shall indemnify, defend and hold harmless the Municipality and the Program Manager ("Indemnified Parties") and the Indemnified Parties' officials, officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Competitive Supplier or its Associated Entities of its obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Distribution Utility, the Municipality or its employees or agents, or (ii) any action or omission taken or made by the Competitive Supplier or its Associated Entities in connection with Competitive Supplier's performance of this ESA.

14.2 NOTICE OF INDEMNIFICATION CLAIMS

If the Municipality or Program Manager seeks indemnification pursuant to this Article 14, it shall notify Competitive Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim.

14.3 SURVIVAL

Notwithstanding any provision contained herein, the provisions of this Article 14 shall survive the termination of this ESA for a period of two (2) years with respect to (i) any claims which occurred or arose prior to such termination and (ii) any losses occurring as a result of the termination.

14.4 DUTY TO MITIGATE

Each Party agrees that they have a duty to mitigate damages and covenant that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this ESA.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 BY THE COMPETITIVE SUPPLIER

As a material inducement to entering into this ESA, the Competitive Supplier hereby represents and warrants to the Municipality as of the Effective Date of this ESA as follows:

- a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this ESA;
- b) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
- c) the execution, delivery and performance of this ESA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- d) subject to the conditions set forth in Article 2.4, this ESA constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations to the Municipality in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;
- e) no Bankruptcy is pending against it or to its knowledge threatened against it;
- f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to or for the benefit of the Municipality pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- g) all information furnished by Competitive Supplier in response to the Request for Proposals for competitive electric supply services is true and accurate.

15.2 BY THE MUNICIPALITY

As a material inducement to entering into this ESA, the Municipality hereby represents and warrants to Competitive Supplier as of the Effective Date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of the Municipality enforceable in accordance with its terms, subject to applicable law;

- b) the execution, delivery and performance of this ESA are within the Municipality's powers, have been or will be duly authorized by all necessary action;
- c) Municipality has all authorizations from local Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against the Municipality;

15.3 BY THE PROGRAM MANAGER

As a material inducement to entering into this ESA, the Program Manager hereby represents and warrants to Competitive Supplier and Municipality as of the Effective Date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of Program Manager enforceable in accordance with its terms, subject to applicable law
- b) the execution, delivery and performance of this ESA are within Program Manager's powers, have been or will be duly authorized by all necessary action;
- c) Program Manager has all authorizations from any local or state Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against Program Manager.

ARTICLE 16 INSURANCE

16.1 In order to help support the indemnifications provided in Article 14, and its other promises and covenants stated herein, Competitive Supplier shall secure and maintain, at its own expense, before the Effective Date and throughout the term of this ESA, unless otherwise specified, commercial general liability insurance of at least \$1,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers licensed to do business in the State of New York. Each of the required insurance policies shall be with insurers qualified to do business in the State of New York, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition. In the event the Competitive Supplier's insurance carrier is downgraded to a rating of lower than Best's A-, Competitive Supplier shall have ninety (90) days to obtain coverage from a carrier with a rating of at least Best's A-. A certificate that each such insurance coverage is in force and effect, and listing the Municipality as an additional insured on all policies, shall be submitted on or before the Effective Date and thereafter whenever renewed or requested by the Municipality. All insurers must be notified that the insurance policies must provide that a copy of any notice of cancellation or non-renewal will be sent to the Municipality.

16.2 With respect to any of the insurance policies provided by the Competitive Supplier pursuant to these requirements which are "claims made" policies, in the event at any time such policies are canceled or not renewed, the Competitive Supplier shall provide a substitute insurance policy with terms and conditions and in amounts which comply with these requirements and which provides for retroactive coverage to the date of the cancellation or non-

renewal of the prior “claims-made” policy. With respect to all “claims made” policies which have been renewed, the Competitive Supplier shall provide coverage retroactive to the Effective Date under this ESA. All said substitute or renewed “claims made” policies shall be maintained in full force and effect for three (3) years from the date of the termination of the ESA.

16.3 Competitive Supplier, to the extent required by law, must provide worker’s compensation insurance meeting all applicable state and federal requirements.

ARTICLE 17 REGULATORY EVENT/NEW TAXES

17.1 REGULATORY EVENT

If a Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If despite such best efforts, a Regulatory Event affects Competitive Supplier and Program Manager and Municipality agree that Competitive Supplier is incurring excess costs as a result thereof and agrees that Competitive Supplier may recover such costs, such amount shall be allocated to and collected from Participating Customers on a per kWh basis through applicable monthly invoice(s).

17.2 QUALIFYING REGULATORY EVENT

If a Qualifying Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If a Qualifying Regulatory Event affects Competitive Supplier and Competitive Supplier incurs excess costs as a result thereof, such amount shall be allocated to and collected from Participating Customers on a per kWh basis through applicable monthly invoice(s).

17.3 NEW TAXES

If any New Taxes are imposed for which Competitive Supplier is responsible, the amount of such New Taxes shall be allocated to and collected from Participating Customers through applicable monthly invoice(s).

ARTICLE 18 MISCELLANEOUS

18.1 NO ASSIGNMENT WITHOUT PERMISSION

Except in the event of the sale of all or substantially all of its retail electricity business to an entity with credit and service ability to deliver on all facets of this ESA reasonably acceptable to Municipality, Competitive Supplier or Program Manager shall not directly or indirectly assign this ESA or any of its rights, obligations and privileges under this ESA without the prior written approval of the Municipality. Such approval may be denied at the reasonable discretion of the Municipality, including if the proposed assignee does not have the experience and financial ability to fulfill all obligations of the Competitive Supplier or Program Manager in the ESA. Notwithstanding the above, any assignment of this ESA by the Competitive Supplier, whether as the result of the sale of all or substantially all of the Competitive Supplier’s business related to

this ESA or otherwise, shall be subject to the following requirements: (i) Competitive Supplier shall provide the Municipality with notice of the proposed assignment at least ninety (90) days prior to such assignment; (ii) Competitive Supplier's assignee shall agree in writing to be bound by the terms and conditions of this ESA; and (iii) Competitive Supplier and such assignee shall, at least ninety (90) days in advance of any assignment, reasonably demonstrate to Municipality that assignee has the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. The Municipality or Program Manager may assign this ESA without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same financial ability as the Municipality or Program Manager and such assignment would not materially impair the rights and interests of Competitive Supplier under this ESA. The rights and obligations created by this ESA shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

18.2 DIRECT MARKETING

Prior to the introduction of any new product or service which Competitive Supplier may wish to make available to Participating Customers or other Eligible Customers located within the Municipality, Competitive Supplier agrees to (i) give the Municipality written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Municipality the possible inclusion of such new product or service in this or another aggregation program undertaken by the Municipality.

Competitive Supplier also agrees not to engage, whether directly or through any of its Associated Entities, in any direct marketing to any Participating Customer that relies upon Competitive Supplier's unique knowledge of, or access to, Participating Customers gained as a result of this ESA. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Competitive Supplier and the Participating Customer. Programs of the Competitive Supplier that do not rely on unique knowledge or access gained through this ESA will not constitute such "direct marketing."

18.3 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this ESA shall be in writing and addressed to:

If to Competitive Supplier:

If to Municipality:

and if to Program Manager:

Executive Director
Sustainable Westchester Inc
55 Maple Ave.
Mount Kisco, NY 10549

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this ESA; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this ESA; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this ESA. Any party may change its address and contact person for the purposes of this Article 18.3 by giving notice thereof in the manner required herein.

18.4 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name or telephone number of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt notice to the Municipality and the Program Manager in the manner set forth in Article 18.3. In the event that the name or telephone number of any such contact person for the Municipality changes, prompt notice shall be given to the Competitive Supplier and the Program Manager in the manner set forth in Article 18.3. In the event that the name or telephone number of any such contact person for the Program Manager changes, prompt notice shall be given to the Competitive Supplier and the Municipality in the manner set forth in Article 18.3.

18.5 ENTIRE ESA; AMENDMENTS

This ESA constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This ESA may only be amended or modified by a written instrument signed by all Parties hereto, duly authorized to sign such instrument.

18.6 FORCE MAJEURE

If by reason of Force Majeure any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the Force Majeure, gives the other Party hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If (i) an event of Force Majeure caused by any strikes, lockouts or other industrial disturbances involving Competitive Supplier or its Associated Entities continues for a period of thirty (30) days or longer, or (ii) an event of Force Majeure arising from any other cause continues for a period of one hundred eighty (180) days or longer, any Party may terminate this ESA by sending the other Party a written notice as set forth in Article 4.2; provided, however, that the same shall not constitute a default under this ESA and shall not give rise to any damages. Additionally, Competitive Supplier shall submit all customer drops via EDI to the Distribution Utility in accordance with the rules and regulations set forth by the PSC in Case 98-M-0667.

18.7 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this ESA, including without limitation, all of its attorney's fees and expenses.

18.8 NO JOINT VENTURE

Each Party will perform all obligations under this ESA as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Municipality and the Competitive Supplier hereunder are individual and neither collective nor joint in nature.

18.9 JOINT WORK PRODUCT

This ESA shall be considered the work product of all Parties hereto, and, therefore, no rule of strict construction shall be applied against any Party.

18.10 COUNTERPARTS

This ESA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

18.11 WAIVER

No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this ESA shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this ESA shall only be effective with respect to an obligation to the waiving Party and shall only be effective if made in writing and signed by the Party who is making such waiver.

18.12 ADVERTISING LIMITATIONS

Competitive Supplier agrees not to use, whether directly or through any of its Associated Entities, the name of the Municipality, or make any reference to the Municipality in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Municipality expressly agrees to such usage. Any proposed use of the name of the Municipality must be submitted in writing for agreement and prior written approval which may be withdrawn through a notice in writing at any time. The Municipality acknowledges that the Competitive Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted to the Municipality hereunder, and the Municipality agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

18.13 PRESS RELEASES

The Parties agree to cooperate in good faith prior to the issuance of any formal press release with respect to this ESA, such cooperation to include agreement as to the form, substance and timing of such formal press release.

18.14 HEADINGS AND CAPTIONS

The headings and captions appearing in this ESA are intended for reference only, and are not to be considered in construing this ESA.

18.15 SURVIVAL OF OBLIGATION

Termination of this ESA for any reason shall not relieve the Parties of any obligation accrued or accruing prior to such termination.

ARTICLE 19 REMEDIES

19.1 GENERAL

Subject to the limitations set forth in Article 19.2 below and Article 4, the Parties reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party hereto under this ESA.

19.2 LIMITATIONS

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, each Party acknowledges that the preceding sentence shall not limit the other Party's rights to seek direct damages or, under Article 14.1, to seek indemnification from Competitive Supplier for consequential, punitive, or incidental damages described in the preceding sentence or other such losses claimed by third- parties.

19.3 DISCLAIMER

COMPETITIVE SUPPLIER MAKES NO WARRANTIES HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

//Signatures Follow//

IN WITNESS WHEREOF, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York, as of the respective dates set forth below

COMPETITIVE SUPPLIER

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

MUNICIPALITY

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

PROGRAM MANAGER

By: _____

Name: Nina Orville

Title: Executive Director

Address: 40 Green Street, Mount Kisco, NY 10549

Dated: _____

EXHIBIT A – PART 1 PRICES AND TERMS – STANDARD PRODUCT

Firm Full-Requirements Price by Rate Classification for all Participating Customers located in **New York State Electric & Gas** territory commencing service on the first customer meter-read date after November 30, 2021.

Table 1:

Rate Class	Fixed Price per kWh	
Residential	\$0.0###	
Small Commercial	\$0.0###	

Terms for System Supply Service

The Price and Terms stated on this Exhibit A will commence on the first customer meter read date after November 30, 2021 and continue until the first customer meter read date after _____ for each Participating Customer, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

The period of delivery of Firm Full-Requirements Power Supply shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Start-Up Service Date: Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Customer's first meter read dates after November 30, 2021.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy and Renewable Energy Certificates in the Firm Full-Requirements Power Supply mix in an amount equal to New York State's Renewable Portfolio Standards in a manner designated by New York State.

Eligible Customer Opt-Out: Participating Customers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Customers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Customers to opt-out or terminate service.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any customer participating in the Program, nor will Competitive Supplier require any customer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Customer and return such customer to Default Service in the event that the customer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Supplier shall serve Newly Opt-out Eligible Customers, as well as Eligible Customers who opt-in to the Program, who enroll or are enrolled into the Program after the first customer meter-read date referred to above at the fixed price in Table 1 above.

EXHIBIT A- PART 2 PRICES AND TERMS- 100% RENEWABLE CLEAN POWER PRODUCT

Firm Full-Requirements Price for 100% Renewable Clean Power Product by Rate Classification for all Participating Customers located in New York State Electric & Gas territory commencing service on the first customer meter-read date after November 30, 2021.

Table 2:

Rate Class	Fixed price per kWh
Residential	\$0.0####
Small Commercial	\$0.0####

Terms for System Supply Service

The Price and Terms stated on this Exhibit A will commence on the first customer meter read date after November 30, 2021 and continue until the first customer meter read date after _____ for each Participating Customer, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

The period of delivery of 100% Renewable Clean Power Product shall be consistent with the provisions of Article 4 and Exhibit A – Part 2 of this ESA.

Start-Up Service Date: 100% Renewable Clean Power Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Customer's first meter read dates after November 30, 2021.

Renewable Portfolio Standards ("RPS Requirements"): The standard electricity generation mix offered to Participating Customers under the Standard Electricity Product shall meet the minimum RPS Requirements for electric power designated by New York State.

100% New York Voluntary Tier II Clean Power RECs -- This Exhibit A-Part 2 includes a voluntary purchase of Renewable Energy Certificates ("RECs") sourced from NY Tier II Voluntary Renewable Resources in an amount equal to 100% of the Participating Customers' electricity usage, less any then-current Tier 1 REC purchase associated with the RPS Requirements applicable to alternative retail electric suppliers in New York. For clarifications purposes, this amount includes any then-current New York renewable energy standard requirements applicable to alternative retail electric suppliers in New York as of the Effective Date of this Agreement plus additional NY Tier II Voluntary RECs in an amount equal to 100% of the customer's usage. Each REC represents environmental attributes associated with one MWh of electricity generated by a renewable fuel type defined by the New York Generation Tracking System ("NYGATs") Operating Rules, dated May 18, 2018, but does not include any tax credits, depreciation allowances or third party subsidies of any kind. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or

otherwise for compliance with any emission reduction or similar program. For purposes of this Agreement:

i. “NY Tier 2 Renewable Resource” means any electric power generator meeting the definition of a “renewable energy system,” as that term is defined in the New York Climate Leadership and Community Protection Act, and meeting the requirements of a Tier II Renewable Energy Certificate as defined by the PSC or DPS Staff. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program. RECs will be retired for all participants collectively at the Program level.

Eligible Customer Opt-Out: Participating Customers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Customers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Customers to opt-out or terminate service.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any customer participating in the Program, nor will Competitive Supplier require any customer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Customer and return such customer to Default Service in the event that the customer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Supplier shall serve Newly Opt-out Eligible Customers, as well as Eligible Customers who opt-in to the Program, who enroll and are enrolled into the Program after the first customer meter-read date referred to above at the price in Table 2, above.

In the event that New York State institutes a subsidy for CCA purchase of RECs after the signing of this ESA that is applicable to all or any portion of the Competitive Suppliers obligations under this ESA, Competitive Supplier shall pass through the full subsidy to Participating Customers in the form of a rate reduction.

EXHIBIT B - TEMPLATE KWH SALES AND CUSTOMER ACCOUNTS DATA SUMMARY

KWH Sales Template

UsageEndYrMo	Municipality	Zone	CustType	RateClass	Product	Count	Consump_kWh
202101	[MUNI NAME]	I	Residential	SC1	100% renewable	##,###	###,###
202101	[MUNI NAME]	I	Residential	SC1	Standard	##,###	###,###
202101	[MUNI NAME]	I	Small Coml	SC2	100% renewable	##,###	###,###
202101	[MUNI NAME]	I	Small Coml	SC2	Standard	##,###	###,###
202101	[MUNI NAME]	H	Residential	SC1	100% renewable	##,###	###,###
202101	[MUNI NAME]	H	Residential	SC1	Standard	##,###	###,###
202101	[MUNI NAME]	H	Small Coml	SC2	100% renewable	##,###	###,###
202101	[MUNI NAME]	H	Small Coml	SC2	Standard	##,###	###,###
etc..							

Add-Drop Report

UsageEndYearMonth	Municipality	CustomerType	RateClass	Product	AddOrDrop	AddDropType	Count
202101	[MUNI NAME]	Residential	SC1	renewable	Drop	Moved	##
etc.					Drop	Changed Supplier	
					Drop	Opt-out	
					Drop	Other	
					Add	Opt-in	
					Add	Newly Eligible	

EXHIBIT C - PAYMENT

PROGRAM MANAGER BANK INFORMATION FOR PAYMENTS BY ACH

Bank Name:

Bank Routing Number:

Bank Account Number:

Federal ID:

EXHIBIT D - DATA REQUIREMENTS

In order for program administrators and participants to have visibility into their participation with the program, certain data will need to be exchanged, in a regular format, with regular transmission methods and times.

There are three file formats currently in use for this purpose which must be provided by Competitive Supplier to Program Manager:

1. Newly_Opt-out Eligible_Customer file - Competitive Supplier will obtain this data quarterly from the Utility and the notification mailing is made from the list following procedures described elsewhere in this ESA. The Program Manager requires a matching dataset as defined below in order to perform its duties for customer service during the opt out period.
2. Post-enrollment file - After the Competitive Supplier sends enrollments to the Utility, either at the beginning of this contract or after a Newly Opt-out Eligible Customer opt out period, the Competitive Supplier will send this file to the Program Manager to update its records.
3. Commission file - Standard practice for aggregation suppliers.

The abovementioned files should, at minimum, contain the following information:

<u>Newly Opt-out Eligible Customer file</u>	<u>Post-enrollment file</u>	<u>Commission file</u>
Pre-Enrollment ID Customer Name Service Address Service City State Zip Mailing Address Mail City State Zip Customer Classification Rate Category	Pre-Enrollment ID Utility Account Number Meter Read Cycle Account Start Account End Enrollment Issue/Reason Code Municipality Name Contract Start Contract End Rate Class Annual kWh Capacity Tag Capacity Start Date Capacity End Date Billing Name Billing Address Billing State Billing City Billing Zip Enrollment Date (Contract Start Date) Load Zone	Customer Name Service Account Number Invoice Number Contract ID Municipality Customer Class Invoice Date Start Date End Date Earned Date Scheduled Payment Month Usage UDC Code Commission Rate/Amount Commission Payment Lag (Days)

File transfer between the Supplier and Program Manager, or a party designated by Program Manager, shall be by SFTP or other secure mode.

EXHIBIT E - OPTION TO SUPPLY POWER

Competitive Supplier shall provide power to Participating Customers, including through the purchase of REC's, throughout the term of this ESA and from sources selected in Competitive Supplier's own discretion. However, Program Manager desires to build or contract with a third party to supply renewable sources of energy (the "Renewable Power Source") after the Effective Date of the Program for the benefit of the Participating Customers. Upon completion of any such Renewable Power Source the Program Manager may offer to sell output from the Renewable Power Source to Competitive Supplier, either directly or through an Associated Entity, under a separate Power Purchase Agreement ("PPA"). Upon mutual agreement of such arrangement and execution of the PPA, Competitive Supplier (or its Associated Entity) shall take the output of the Renewable Power Source for use for the Program. The Competitive Supplier and Program Manager agree that any such PPA shall include a provision requiring the the Competitive Supplier or the Program Manager to agree to a rate adjustment to Participating Customers in the following circumstances:

(i) In the event that executing the PPA makes it necessary for Competitive Supplier (or an Associated Entity) to sell power previously purchased to meet Competitive Supplier's obligations under this ESA at a lower price than Competitive Supplier paid for such power, the Program Manager shall agree to a rate adjustment to Participating Customers to compensate Competitive Supplier (or its Associated Entity) for any losses suffered by the Competitive Supplier as a result of the difference in price.

(ii) In the event that executing the PPA makes it necessary for Competitive Supplier (or an Associated Entity) to sell power previously purchased to meet Competitive Supplier's obligations under this ESA at a higher price than Competitive Supplier paid for such power, the Competitive Supplier (or an Associated Entity) shall agree to a rate adjustment to Participating Customers to compensate Participating Customers for any gains inured to the benefit of Competitive Supplier as a result of the difference in price.

Electric Service Agreement

Exhibit 1 to accompany the Memorandum of Understanding
on Community Choice Aggregation
between local government members of Sustainable Westchester, [Supplier],
and Sustainable Westchester

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RECITALS

WHEREAS, Sustainable Westchester, Inc. sought approval of a demonstration community choice energy aggregation ("Community Choice") program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to procure energy supply from an Energy Services Company for the residents of the municipalities;

WHEREAS, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first Community Choice pilot program in New York State;

WHEREAS, the PSC subsequently issued the order "Authorizing Framework for Community Choice Aggregation Opt-out Program" on April 21, 2016 (the "CCA Framework Order") enabling Community Choice throughout New York State;

WHEREAS, the Westchester Community Choice Aggregation program (also known as Westchester Power) is intended to include residential and small non-residential customers, and to permit the aggregation of electric purchases by the communities which elect to participate;

WHEREAS, the City/Town/Village of _____ ("Municipality") has adopted a Local Law to participate in the Sustainable Westchester Community Choice Program ("Program") to aggregate customerseensumers located within the Municipality and to negotiate competitive rates for the supply of electricity for such customerseensumers;

WHEREAS, the program allows Municipality to solicit competitive bids for the supply of electricity individually or as part of a buying group with other municipal aggregators;

WHEREAS, Sustainable Westchester, Inc. has been authorized by the Municipality to act as Program Manager for a Community Choice Program, pursuant to Local Law and Memorandum of Understanding 20210, issue a request for proposals ("RFP") to suppliers to provide energy to Participating CustomerParticipating Consumers, and to award supply contracts;

WHEREAS, the Program executed the first electric service contracts in 2016 (the "2016 ESA") with four municipalities in the Westchester New York State Electric and Gas ("NYSEG") utility territory, and added one more municipality in 2018, and the most recent seend-contracts expire on November 30, 2021+9;

WHEREAS, _____, an entity duly authorized to conduct business in the State of New York as an energy service company ("ESCO") (the "Competitive Supplier"), desires to provide Full-Requirements Power Supply to customerseensumers located within the Municipality, pursuant to the terms and conditions of the Municipality's Program and this Electric Service Agreement ("ESA");

WHEREAS, the Municipality desires that the Competitive Supplier provide Firm Full-Requirements Power Supply and Consolidated Billing as an alternative to Default Service for customcreonsumers within the Municipality;

WHEREAS, Competitive Supplier is willing to provide two distinct electric supply products and two corresponding pricing levels, (1) a Standard Product and price, and (2) a 100% Renewable Clean Power Product comprised of the Standard Product plus New York Voluntary Clean Power RECs and price as set out in Exhibit A herein;

WHEREAS, Municipality has chosen the Standard Product / 100% Renewable Clean Power Product- [select one and initial] as the Default Product for Participating CustomerParticipating Consumersits residents and small businesses;

WHEREAS, Competitive Supplier agrees to pay a fee to Program Manager;

WHEREAS, Municipality prefers for Competitive Supplier to collect and remit the fees due the Program Manager;

WHEREAS, the local governments that participate in the Sustainable Westchester Community Choice Program, including this Municipality, intend that this Agreement be uniform in form and substance in each instance throughout the Program; and

NOW THEREFORE, IT IS AGREED THAT, Municipality, Program Manager, and the Competitive Supplier hereby enter into this ESA subject to the terms and conditions below.

ELECTRIC SERVICE AGREEMENT

ARTICLE 1 DEFINITIONS

Capitalized terms that are used but not defined in the body of this ESA, including the Exhibits hereto, shall be defined as set forth in this Article 1. Words defined in this Article 1 that are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.0 Associated Entities – Any and all of the employees, officers, agents, representatives, and independent contractors and subcontractors of the Competitive Supplier or of any of its corporate parents or subsidiaries, which provide goods or services to, or in any way assist, the Competitive Supplier in meeting its obligations under the ESA, but specifically excluding the Distribution Utility.

1.1 Bankruptcy - With respect to a Party, (i) such Party ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, provided that, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.2 CCA Orders – Collectively, the February 26, 2015 “Order Granting Petition in Part” issued by the PSC in Case 14-M-0564; the April 21, 2016 “Order Authorizing Framework for Community Choice Aggregation Opt-out Program” issued by the PSC in Case 14-M-0224 (the “CCA Framework Order”), which sets forth the requirements, terms, and conditions under which CCA programs can proceed through implementation; and the November 15, 2018 “Order Approving Renewal of the Sustainable Westchester Community Choice Aggregation Program” issued by the PSC in Case 14-M-0564, which reauthorizes the Sustainable Westchester CCA program under a Master Implementation Plan.

1.3 100% Renewable Clean Power Product - Firm Full-Requirements Power Supply matched with New York Voluntary Clean Power RECs (hydropower, solar energy or wind energy) as defined in, and subject to the Attribute delivery rules set forth in, the New York Generation Tracking System ("NYGATS") Operating Rules, supporting the Public Service Commission's Environmental Disclosure Program, as further described and defined in Pricing Exhibit A-2

1.4 Commercially Reasonable - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations, as defined in the Uniform Business Practices or without limitation in additional applicable law and regulations, provided that in no event shall increased costs or economic hardship be an excuse for not performing a Party's obligations under this ESA.

1.5 Community Choice – Municipal electricity procurement program, purchasing supply for the aggregated demand for all Participating Eligible Customers within the Municipality.

1.6 Competitive Supplier or Energy Services Company ("ESCO")– An entity duly authorized to conduct business in the State of New York as an ESCO.

1.7 Consolidated Billing - A billing option that provides Participating CustomerParticipating Consumers with a single bill issued by the Distribution Utility combining delivery and supply charges from the Distribution Utility and Competitive Supplier respectively.

1.8 Default Product – The product selected by the Municipality for supply to its Participating CustomerParticipating Consumerseligible residents and small businesses upon enrollment, unless they take action to select a different product or opt out..

1.9 Default Service – Supply service provided by the Distribution Utility to customers who are not currently receiving service from a Competitive Supplier. Residential and small commercial customerseonsumers within the Municipality that receive Default Service, and have not opted out, will be enrolled in the Program as of the Effective Date.

1.10 Delivery Term - The period for which prices for Firm Full-Requirements Power Supply have been established, as set forth in Exhibit A.

1.11 Distribution Utility - Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.

1.12 Electronic Data Interchange ("EDI") - The exchange of business data in a standardized format between business computer systems.

1.13 **Effective Date** - The day immediately following the initial 30-day period specified in the PSC Order final day of the rescission period, which immediately follows the opt-out period, which occurs after notifications to Eligible CustomersConsumers, which occurs after this ESA has been executed by the Parties (to be determined by the later date, if the Parties execute on different dates).

1.14 **Eligible CustomersConsumers** – Customers of electricity and/or natural gas eligible to participate in the CCA Program, either on an Opt-out or Opt-in basis, as delineated in the CCA Framework Order. Residential and small commercial consumers of electricity who receive Default Service from the Distribution Utility as of the Effective Date, or have been served by the program under the 202019 ESA and have not opted out, or “Newly Eligible Consumers” that subsequently become eligible to participate in the Program, at one or more locations within the geographic boundaries of the Municipality, except those consumers who receive Default Service and have requested not to have their account information shared by the Distribution Utility. For the avoidance of doubt, all Eligible CustomersConsumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality and served by the Distribution Utility, as such boundaries exist on the Effective Date of this ESA.

1.15 **ESA** - This Electric Service Agreement.

1.16 **Environmental Disclosure Label** – The fuel mix purchased by an ESCO and the related emissions of those fuels compared to a statewide average, which is required to be reported under the DPS’s Environmental Disclosure Program.

1.17 **Federal Energy Regulatory Commission (“FERC”)** - The United States federal agency with jurisdiction over interstate electricity sales, wholesale electric rates, hydroelectric licensing, natural gas pricing, and oil pipeline rates.

1.18 **Firm Full-Requirements Power Supply** - The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply at a fixed contract price including all those components regardless of changes in kWh usage or customer grouping during the contract term to Participating CustomerParticipating ConsumersParticipating Consumers at the Point of Sale.

1.19 **Force Majeure** - Any cause not within the reasonable control of the affected Party which precludes that party from carrying out, in whole or in part, its obligations under this ESA, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes, lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Municipality may not be asserted as an event of Force Majeure by the Municipality; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil or industrial disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any

governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of any Party shall not constitute an event of Force Majeure.

1.20 General Communications - The type of communications described and defined in Article 5.7 herein.

1.21 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Municipality.

1.22 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.23 kWh, kW - Kilowatt-hour and kilowatt, respectively.

1.24 Local Law – A local law or ordinance, adopted by Municipality according to General Municipal Law, which authorizes Municipality to join the Sustainable Westchester Community Choice Program.

1.25 Memorandum of Understanding 20210 – Binding agreement between Municipality and Program Manager authorizing Sustainable Westchester to administer the Program.

1.26 Newly Opt-Out Eligible ~~Customers~~Consumers – Residential and small commercial ~~customerse~~consumers of electricity that become Opt-out Eligible Customers ~~Eligible Consumers~~ after the Effective Date, including those that opt-in or move into Municipality and those who complete or terminate other 3rd party supply contracts and have returned to Default Service, provided these ~~customerse~~consumers have not previously opted out of the Program.

1.27 New Taxes - Any taxes not in effect as of the Effective Date enacted by a Governmental Authority or the Municipality, to be effective after the Effective Date with respect to Firm Full-Requirements Power Supply, or any Governmental Rule enacted and effective after the Effective Date resulting in application of any existing tax for the first time to Participating Customer~~Participating Consumers~~.

1.28 NYISO - The New York Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New York and the bulk transmission of electricity throughout the New York power grid.

1.29 Opt-out Eligible Customers - Eligible Customers that are eligible for Opt-out treatment as delineated in the CCA Framework Order. For the avoidance of doubt, Opt-out Eligible Customers shall not include customers that have previously opted-out of the Program.

~~1.30 Participating Customer~~ Participating Consumers - Eligible Customers enrolled in the Program, including Opt-out Eligible Customers who have been enrolled subsequent to the opt-out process and other customers who have been enrolled after opting in. ~~Eligible Consumers enrolled in the Program, either because they are consumers who receive Default Service from the Distribution Utility as of the Effective Date and have not opted out, or have been served by the Program under the 20202016 ESA and have not opted out, or are Newly Eligible Consumers.~~

1.310 Parties - The Municipality, the Program Manager, and the Competitive Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.324 Point of Delivery - The boundary of the Distribution Utility's electricity franchise, or the point at which the Competitive Supplier delivers the power to the Distribution Utility.

1.332 Point of Sale - The electric meter for each ~~Participating Customer~~ Participating Consumer's account, as designated by the Distribution Utility, such that all line loss costs are included in Competitive Supplier price to bring power to the meter.

1.343 Program - Sustainable Westchester Community Choice Aggregation Program.

1.354 Program Manager – Sustainable Westchester, Inc., a non-profit organization comprised of multiple municipalities in Westchester County of which the Municipality is a member, authorized by PSC to put out for bid the total amount of electricity being purchased by ~~Participating Customer~~ Participating Consumers. Program Manager is responsible for Program organization, administration, procurement, and communications, unless otherwise specified.

1.365 PSC or DPS - The New York State Public Service Commission or the New York State Department of Public Service acting as Staff on behalf of the PSC, or any successor state agency.

1.376 ~~Qualifying Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority at any time after Competitive Supplier submits its bid response to the RFP associated with this ESA, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation. To meet the threshold of being a Qualifying Regulatory Event, the impact of the event must impact the majority of customers in the same rate class, but not including a Regulatory Event that applies uniquely to Competitive Supplier. Notwithstanding anything to the contrary in this ESA or the RFP, any changes to the Purchase of Receivables (POR) approved by the PSC shall be deemed a Qualifying Regulatory Event hereunder. Qualifying Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation. To meet the threshold of being a~~

~~Qualifying Regulatory Event, the impact of the event must impact the majority of customers in the same rate class and must not be unique to Competitive Supplier's customers.~~

1.387 Regulatory Event-- Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation.

1.398 Retail Price - As set forth in Exhibit A.

1.4039 Service Commencement Date - The date of the Participating Customer~~Participating Consumers~~' first meter read date after the Effective Date, or as soon as necessary arrangements can be made with the Distribution Utility thereafter.

1.410 Standard Product – Traditional generation mix, meeting the minimum Renewable Portfolio Standards for electric power established by New York State.

1.4240 Term - As defined in Article 4.1.

1.4324 Uniform Business Practices – Regulations governing the business practices of utilities and Energy Services Companies with regards to service, billing, marketing, data, and customer rights, issued by the New York State Public Service Commission (Case 98-M-1343).

ARTICLE 2 RIGHTS GRANTED

2.1 GENERAL DESCRIPTION AND LIMITATIONS

Competitive Supplier is hereby granted the exclusive right to be the default provider of Firm Full-Requirements Power Supply to Participating Customer~~Participating Consumers~~ pursuant to the terms of this ESA. For the avoidance of doubt, Competitive Supplier shall be authorized to supply Firm Full-Requirements Power Supply only to Participating Customer~~Participating Consumers~~ enrolled in the plan or plans managed by the Program Manager, and the Distribution Utility will continue to have the right and obligation to supply electricity to Eligible Customers~~Consumers~~ who opt-out of the Program and remain on, or return to, Default Service, until changes in law, regulation or policy may allow otherwise.

In accordance with Article 3 below, all Opt-out Eligible Customer~~Eligible Consumers~~ shall be automatically enrolled in the Program unless they choose to opt-out or have previously opted out of the Program. In the event the geographic boundaries of the Municipality change during the term of this ESA, Competitive Supplier shall only be obligated to supply Firm Full-Requirements Service to those Participating Customer~~Participating Consumers~~ located within the Municipality as such boundaries existed on the Effective Date of this ESA. As between the Parties, the Competitive Supplier has the sole obligation of making appropriate arrangements

with the Distribution Utility, and any arrangements which may be necessary with the NYISO so that ~~Participating Customer~~~~Participating Consumers~~ receive the electricity supplies to be delivered pursuant to this ESA.

The Municipality shall specifically authorize the Distribution Utility to provide, and Competitive Supplier the right to obtain and utilize as required, all billing and energy consumption information for ~~Participating Customer~~~~Participating Consumers~~ as is reasonably available from the Distribution Utility. The Distribution Utility Fees for the provision of this data shall be paid for by the Supplier. Competitive Supplier shall request consumption data for individual ~~Participating Customer~~~~Participating Consumers~~ from the Distribution Utility via EDI. If further action is required by the Distribution Utility to authorize Competitive Supplier to receive such consumption and billing data, the Program Manager, on behalf of the Municipality agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier, if so requested by it, in obtaining such information for ~~Participating Customer~~~~Participating Consumers~~, including, without limitation, assisting Competitive Supplier in obtaining permission from such ~~Participating Customers~~~~Eligible Consumers~~ and/or the PSC, where necessary as a prerequisite to the provision of such information. Competitive Supplier shall not be responsible for any errors that Competitive Supplier or any of its Associated Entities makes in the provision of Firm Full-Requirements Power Supply only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

2.2 NO THIRD PARTY BENEFICIARIES

Except as specifically provided in Section 18.11, this ESA does not and is not intended to confer any rights or remedies upon any person other than the Parties. This ESA facilitates rights under the CCA Orders and Local Law for ~~Eligible Customers~~~~Eligible Consumers~~ to purchase electricity from the Competitive Supplier in accordance with this ESA. The Municipality, or Program Manager in support of the Municipality, has the right, but not the obligation, to advocate on behalf of the ~~Eligible Customers~~~~Eligible Consumers~~ interested in contracting for electric supply and on behalf of all ~~Participating Customer~~~~Participating Consumers~~, unless otherwise prevented by law.

2.3 COMPLIANCE WITH LAWS

The Municipality represents that the Local Law has been duly adopted.

Competitive Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations, requirements, and orders of the FERC, NYISO, and PSC.

2.4 CONDITIONS PRECEDENT

The Municipality's obligations under this ESA shall be conditioned upon the Competitive Supplier fulfilling the following requirements:

- a) maintain Competitive Supplier's license from PSC (as such term is defined in the Local Distribution Utility's Terms and Conditions for Competitive Suppliers);
- b) execute any appropriate NYISO applications and agreements;
- c) obtain authorization from the FERC to sell power at market-based rates;
- d) complete EDI testing with Distribution Utility;
- e) provide all other documentation required by the Distribution Utility; and
- f) satisfying all insurance requirements set forth in Article 16 or elsewhere in this ESA.

If Competitive Supplier has not fulfilled all such requirements by the Effective DateService Commencement Date, then the Municipality may terminate this ESA without any liability from Municipality to the Competitive Supplier.

2.5 OWNERSHIP AND USE OF ELIGIBLE CUSTOMERCONSUMER DATA

Competitive Supplier acknowledges that: 1) all Eligible Customer~~Eligible Consumer~~ data (including addresses, telephone numbers or other identifying information) made available to Competitive Supplier as an agent of Municipality for such data must be protected by the Competitive Supplier and its Associated Entities to the fullest extent possible under the law; 2) the Competitive Supplier does not hold any permanent right, title or interest in this data; and 3) this data is to be obtained, retained and used by the Competitive Supplier and its Associated Entities solely to provide Firm Full-Requirements Power Supply to Participating Customer~~Participating Consumers~~ and to render other services expressly required or permitted under this ESA. Any other use of Eligible Customer~~Eligible Consumer~~ data without the prior written consent of the Municipality is strictly prohibited. Competitive Supplier may share such Eligible Customer~~Eligible Consumer~~ data with third-party vendors as reasonably necessary to accommodate Competitive Supplier's provision of Firm Full-Requirements Power Supply or other performance pursuant to this ESA (including, without limitation, collection of receivables or enhancement of data exchange between the Parties), provided that Competitive Supplier will take reasonable measures to secure the confidential nature of such data and the restrictions set forth in this Article 2.5 and elsewhere in this ESA, and that any vendor or subcontractor is also bound by the terms and conditions of this ESA, especially those regarding data confidentiality and prohibition on non-permitted uses of data through a signed non-disclosure agreement, a copy of which will be provided to the Municipality. Except as expressly provided in this ESA, and as otherwise permitted by law, Competitive Supplier and its Associated Entities shall not disclose any Eligible Customer~~Eligible Consumer~~ data to any third-party and Competitive Supplier and its Associated Entities shall take all Commercially Reasonable measures to protect Eligible Customer~~Eligible Consumer~~ data from access by, or beneficial use for, any third-party. To the extent that the provision of Firm Full-Requirements Power Supply or other services under this ESA requires that Competitive Supplier and its Associated Entities have access to or make use of any Eligible Customer~~Eligible Consumer~~ data, Competitive Supplier and its Associated Entities shall treat such Eligible Customer~~Eligible Consumer~~ data as confidential information. Competitive Supplier may use Eligible Customer~~Eligible Consumer~~ data to engage in direct marketing only during the term of this ESA and subject to the terms set forth in Article 18.2. A violation of this Article 2.5

shall be grounds for termination under Article 4.2(a). Competitive Supplier agrees violation of this Article 2.5 shall constitute irreparable harm.

ARTICLE 3 CUSTOMERCONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT

3.1 CUSTOMERCONSUMER CHOICE

The Parties acknowledge and agree that all Participating Customer~~Participating Consumers~~ have the right, pursuant to CCA Orders, Local Law, and the Program, to change their source of electricity supply, as set forth in Article 2.1. The Parties represent and warrant to each other that they shall not interfere with the right of Participating Customer~~Participating Consumers~~ to opt-out of the Program, and shall comply with any rules, regulations or policies of PSC, the Distribution Utility and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Not inconsistent with the above, however, the Parties may take Commercially Reasonable measures to encourage Participating Customer~~Participating Consumers~~ to affirmatively agree to remain in the Program, consistent with any Governmental Rules.

3.2 NOTIFICATION TO NEWLY OPT-OUT ELIGIBLE CUSTOMERSCONSUMERS OF OPT-OUT RIGHTS

Consistent with the requirements of any applicable Governmental Rules, and within a reasonable time after the Distribution Utility notifies Competitive Supplier of the existence of a Newly Opt-out Eligible Customer~~New Consumer~~ and has provided to Competitive Supplier such Newly Opt-out Eligible Customer~~New Consumer's~~ account number, service and billing address, and other pertinent contact information, Competitive Supplier shall notify such Newly Opt-out Eligible Customer~~New Consumer~~ (i) of the date on which such Newly Opt-out Eligible Customer~~New Consumer~~ will be automatically enrolled in the Program, and (ii) that the Competitive Supplier will be providing Firm Full-Requirements Power Supply to such Newly Opt-out Eligible Customer~~New Consumer~~ as of the same date, subject to the opt-out provisions of the PSC Orders, Local Law, and the Program ("Opt-Out Notice"). The Opt-Out Notice shall be mailed to each such Newly Opt-out Eligible Customer~~New Consumer~~ prior to the date of automatic enrollment and shall: (i) prominently state all charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in Exhibit A; (iii) state how such Newly Opt-out Eligible Customer~~New Consumer~~ may opt-out of the Program prior to enrollment and remain on Default Service from the Distribution Utility; and (iv) state how all Participating Customer~~Participating Consumers~~, subsequent to enrollment, will also have the right to opt-out at any time and return to Default Service or choose a new Competitive Supplier without paying a fee or penalty to Competitive Supplier. All such notices must be approved in advance by the Municipality.

In providing the notifications set forth in this Article 3.2, and in otherwise conducting the activities in Article 3.4 below, the Competitive Supplier must rely upon information provided to it by the Distribution Utility for the purpose of performing its obligations. Competitive Supplier will not be responsible for any errors in connection with notification of Eligible

~~Customers~~Consumers only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

3.3 CUSTOMER~~CONSUMER~~ AWARENESS

Upon mutual agreement concerning the content and method, either the Competitive Supplier, Municipality, or Program Manager may conduct ~~customer~~consumer awareness efforts at its sole expense.

3.4 ENROLLMENT

3.4.1 ~~Participating Customer~~Participating Consumers – All ~~Opt-out Eligible Customers~~Eligible Consumers as of the Effective Date will be enrolled in the Program, thus becoming ~~Participating Customer~~Participating Consumers, under the terms of this ESA unless they opt-out during the 30-day period specified in the PSC Orders. ~~Participating Customer~~Participating Consumers may disenroll from the Program at any time thereafter with no fee or penalty. The Municipality shall authorize the Distribution Utility to provide to Competitive Supplier or to an alternative designee of the Program Manager who has agreed in writing to a non-disclosure agreement, a copy of which will be provided to the Municipality, a list of ~~Participating Customer~~Participating Consumers as of the Effective Date, as well as such ~~Participating Customer~~Participating Consumer's service and billing addresses, and any other information necessary for Competitive Supplier to commence Firm Full-Requirements Power Supply to such ~~Participating Customer~~Participating Consumers as of the Service Commencement Date.

3.4.2 Newly ~~Opt-out Eligible Customers~~Eligible Consumers - If Newly ~~Opt-out Eligible Customers~~Eligible Consumers elect not to opt-out of the Program as provided in Article 3.2, such Newly ~~Opt-out Eligible Customers~~Eligible Consumers will be automatically enrolled by Competitive Supplier in the Program. These Newly ~~Opt-out Eligible Customers~~Eligible Consumers electing not to opt out of the Program as provided in Article 3.2 shall be enrolled in the Program at a price as defined in ~~Exhibit A~~at the rates reflected in Exhibit A that refer specifically to Newly-Eligible Consumers. For the avoidance of doubt, ~~Participating Customers~~ that have opted into the Program shall also be enrolled in the Program at a price as defined in Exhibit A. Competitive Supplier shall enroll such Newly ~~Opt-out Eligible Customers~~Eligible Consumers in accordance with applicable PSC and Distribution Utility rules.

3.4.3 ~~Eligible Customers~~Consumers Who Have Previously Opted Out - At any time during this ESA, ~~Eligible Customers~~Consumers who have previously opted out of the Program may request that they be enrolled or re-enrolled in the Program. Competitive Supplier shall provide Firm Full-Requirements Power Supply to such ~~Eligible Customers~~Consumers at a price as set forth in Exhibit A. Following mutually agreed upon procedures, the Competitive Supplier is responsible for accurately and promptly transmitting information regarding ~~Eligible Customers~~Consumers, to the Distribution Utility. The Competitive Supplier shall be responsible for enrolling all Eligible Customers through EDI transactions submitted to the Distribution Utility for initial enrollment in the aggregation and all enrollments thereafter.

3.4.4 ~~Customers~~ Consumers Served by Third-Parties - ~~Customers~~ Consumers being served under other competitive supply programs offered by third-parties will not be automatically enrolled as Participating Customer ~~Participating Consumers~~ under this ESA ~~until~~ when such program terminates or is otherwise completed. Competitive Supplier agrees that ~~customer~~ consumers under such third-party competitive supply programs may affirmatively opt-in at any time and receive Firm Full-Requirements Power Supply, thereby becoming Participating Customer ~~Participating Consumers~~. ~~Competitive Supplier further agrees that customers being served under other competitive supply programs that terminate or are otherwise completed become Newly Opt-out Eligible Customers and may be automatically enrolled as Participating Customers under the CCA Orders. Newly Eligible Customers~~ Consumers who opt-in as provided in this Article 3.4.4 or who enroll following the termination or completion of another competitive supply program offered by a third party shall be enrolled in the Program at the rates reflected in Exhibit A that refer specifically to Newly Eligible Consumers.

3.4.5 Termination Fees. There shall be no termination fees for any residential, small commercial, or municipal Participating Customer ~~Participating Consumers~~ to disenroll from the Program.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 TERM

This ESA shall commence on the Effective Date, provided, however, that Competitive Supplier's obligation to provide Firm Full-Requirements Power Supply shall commence on the Service Commencement Date, and shall ~~cease~~ terminate as with the Participating Customer ~~Participating Consumers' first meter read determined by the Parties and delineated in Exhibit A, unless this ESA is terminated earlier under Article 4.2 below ("Term"). Term shall not exceed 36 months.~~

4.2 TERMINATION

This ESA may be terminated at any time upon written notice:

- a) by the Municipality, or the Competitive Supplier, if the other Party fails to remedy or cure any breach of any material provision or condition of this ESA (including, but not limited to, Article 2.5 and Article 9), but excluding the failure to provide or arrange for Firm Full-Requirements Power Supply, which is addressed in Article 4.2(d)), within sixty (60) days following written notice to do so by the non-breaching party; or
- b) by the Municipality, or the Competitive Supplier, if any material provision or condition of this ESA be finally adjudged invalid by any court of competent jurisdiction, or if PSC exercises any lawful jurisdiction so as to invalidate or disapprove this ESA in whole or in significant part; or
- c) by the Municipality, if a Regulatory Event that is not a Qualifying Regulatory Event affects the Competitive Supplier and Competitive Supplier incurs costs and chooses to allocate and collect excess costs from Participating Customer ~~Participating Consumers~~; or

d) by the Municipality, if a court, PSC or other lawful authority adjudicates contrary to Article 6;
or

e) by the Municipality, i) if an order is entered against the Competitive Supplier approving a petition for an arrangement, liquidation, dissolution or similar relief relating to Bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (ii) immediately if the Competitive Supplier shall file a voluntary petition in Bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to Bankruptcy, insolvency or other relief for debtors or shall seek, consent to, or acquiesce in appointment of any trustee, receiver, or liquidation of any of Competitive Supplier's property; or

f) notwithstanding the foregoing, the failure of Competitive Supplier to provide or arrange for Firm Full-Requirements Power Supply to ~~Participating Customer~~Participating Consumers, in the absence of Force Majeure or the Municipality's failure to perform, shall constitute an act of default, and the Municipality may terminate this ESA upon giving written notice and without a cure period. In the event the Competitive Supplier has performed its obligations hereunder and its failure to arrange for or provide Firm Full-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Utility, or the NYISO, the Competitive Supplier's failure shall not be deemed to be an act of immediate default and would be subject to remedy or cure as provided in Article 4.2(a).

4.3 OBLIGATIONS UPON TERMINATION

Following termination of this ESA, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the ESA and Competitive Supplier shall continue to have the right to collect all monies due for services rendered to that date.

Upon termination, Competitive Supplier shall have all ~~Participating Customer~~Participating Consumers switched back to obtaining supply from the Distribution Utility by submitting all ~~customer~~consumer drops via EDI to the Distribution Utility in a form acceptable to the Distribution Utility.

4.4 EXTENSION

The ESA may be extended beyond the termination date established in Article 4.1 by mutual, written agreement of the Parties. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A Extension. Upon any such extension, this ESA shall continue to be in effect, and all provisions of the ESA shall retain the same force and effect as before the extension, unless it is terminated by any Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

ARTICLE 5 CONTINUING COVENANTS

The Competitive Supplier agrees and covenants to perform each of the following obligations during the term of this ESA.

5.1 STANDARDS OF MANAGEMENT AND OPERATIONS

In performing its obligations hereunder, during the term of this ESA, the Competitive Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers or arranges to deliver an uninterrupted supply of such amounts of electricity to the Point of Delivery as are required under this ESA; that it complies with all relevant industry standards and practices for the supply of electricity to Participating Customer~~Participating Consumers~~; and that, at all times with respect to Participating Customer~~Participating Consumers~~, it exercises good practice for a Competitive Supplier and employs all Commercially Reasonable skills, systems and methods available.

5.2 CUSTOMER SERVICE ACCESS

The Competitive Supplier agrees to provide, or cause to be provided, certain customer services to Participating Customer~~Participating Consumers~~. Such services shall be reasonably accessible to all Participating Customer~~Participating Consumers~~, shall be available during normal working hours, shall allow Participating Customer~~Participating Consumers~~ to transact business they may have with the Competitive Supplier, and shall serve as a communications liaison among the Competitive Supplier, the Municipality, and the Distribution Utility. A toll-free telephone number will be established by Competitive Supplier and be available for Participating Customer~~Participating Consumers~~ to contact Competitive Supplier during normal business hours (9:00 A.M.- 5:00 P.M. Eastern Time, Monday through Friday) to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier. To the extent practicable, the Municipality will post program-related information on the Municipality's website which will be available to Participating Customer~~Participating Consumers~~ for general information, comparative pricing, product, and service information, and other purposes.

5.3 RESPONDING TO REQUESTS FOR INFORMATION

To the extent authorized by the Participating Customer~~Participating Consumer(s)~~ and to the extent such individual permission is required by law, the Competitive Supplier shall, during normal business hours (as set forth above), respond promptly and without charge therefore to reasonable requests of the Municipality for information or explanation regarding the matters covered by this ESA and the supply of electricity to Participating Customer~~Participating Consumers~~. Competitive Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contacts shall call upon other employees or agents of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Participating Customer~~Participating Consumers~~, or to comply with any regulation of PSC regarding customer service.

5.4 ARRANGING FOR FIRM FULL-REQUIREMENTS POWER SUPPLY

Competitive Supplier shall participate in or make appropriate arrangements with NYISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of Firm Full-Requirements Power Supply to the Distribution Utility for delivery to Participating Customer~~Participating Consumers~~, and exercise all Commercially Reasonable efforts to cooperate with NYISO or any other entity to ensure a source of back-up power in the event that Competitive Supplier is unable to deliver Firm Full-Requirements Power Supply to the Point of Delivery. In the event the Competitive Supplier is unable to deliver sufficient electricity to the grid to serve Participating Customer~~Participating Consumers~~, the Competitive Supplier shall utilize such arrangements and exercise all Commercially Reasonable efforts as may be necessary to continue to serve Participating Customer~~Participating Consumers~~ under the terms of this ESA, and shall bear any costs it may incur in carrying out these efforts and obligations. Competitive Supplier shall not be responsible to the Municipality or any Participating Customer~~Participating Consumers~~ in the event that, through no fault of the Competitive Supplier or its Associated Entities, the Distribution Utility disconnects, curtails or reduces service to Participating Customer~~Participating Consumers~~ (notwithstanding whether such disconnection is directed by NYISO).

5.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to the Point of Delivery to all Participating Customer~~Participating Consumers~~ on a non-discriminatory basis; provided, however, that those prices and other terms may vary in accordance with reasonably established rate classifications (e.g., residential and small commercial) or by such other categories as appear in Exhibit A. To the extent applicable, Competitive Supplier's prices, terms and conditions shall be in accordance with the New York General Laws, the regulations of PSC, and other applicable provision of law. To the extent required by law and/or the conditions of any PSC approval of this ESA, the Competitive Supplier may not deny service to an Eligible or Participating Customer~~Participating Consumer~~ for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon any Participating Customer~~Participating Consumer's~~ failure to pay bills from the Competitive Supplier, subject to any provisions of law or applicable PSC orders or regulations. Provision of electric energy supply shall be subject to Competitive Supplier's Standard Credit Policy, to the extent permitted by law, as described in Exhibit A.

In any event, should either Program Manager or Municipality actively achieve and document (e.g. to the satisfaction of the New York State Public Service Commission and the Utility) reduction in capacity tag buying obligations, Competitive Supplier will pay or distribute benefits from these tag reductions to Participating Customer~~Participating Consumers~~ at the NYISO strip clearing price for the appropriate zone (i.e., H, upper Westchester or I, lower Westchester), in which the capacity tag reduction is certified by appropriate party. Program Manager agrees it does not intend to pursue any actions that would increase the capacity tag obligation to Competitive Supplier.

5.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with the Municipality in the drafting and sending of messages and information to Eligible or ~~Participating Customer~~~~Participating Consumers~~ concerning the Program or any matter arising under or related to this ESA. Competitive Supplier shall, prior to sending, whether directly or through its Associated Entities, any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Eligible or ~~Participating Customer~~~~Participating Consumers~~ (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual ~~customer~~~~consumer~~), provide a copy of such General Communication to the Municipality and to Program Manager for its review to determine whether it is consistent with the purposes and goals of the Municipality and Program Manager. The Municipality or Program Manager shall have the right to disapprove such General Communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Municipality, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Municipality and Program Manager fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; or (b) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) above shall require approval. If the Municipality objects to any General Communication on the grounds it is inconsistent with the purposes and goals of the Municipality, the Competitive Supplier, after consultation as provided in this Article 5.6, may nevertheless elect to send such General Communication provided that it: (i) clearly indicates on such communication that it has not been endorsed by the Municipality, and (ii) has previously provided all ~~Participating Customer~~~~Participating Consumers~~ a meaningful chance to opt not to receive such General Communications. The Municipality may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Municipality, provided, however, any such right of rejection or exclusion shall not apply to Competitive Supplier's notice to exercise or enforce its rights under the ESA or Customer Agreement, including but not limited to any notice of Force Majeure or Change in Law.

5.7 COMMUNICATION OF INSERTS AND MESSAGES

Competitive Supplier shall, at its expense, print and mail one letter or postcard per year to all active ~~Participating Customer~~~~Participating Consumers~~, the design of which shall be determined by the Municipality or Program Manager.

In addition, Competitive Supplier agrees that if it communicates with ~~Participating Customer~~~~Participating Consumers~~ directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Municipality or Program Manager to include no less than three (3) inserts per year into such communications, provided that the Program Manager or Municipality, where appropriate pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Competitive Supplier may incur as a result of including such insert. Competitive Supplier shall have the right to disapprove such General Communications (that is communications other than those pertaining to the Municipality's

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demand-side management, energy efficiency programs and technology, and renewable energy programs, if applicable) and suggest revisions if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Competitive Supplier fails to respond within seven (7) calendar days after receipt (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication which has been ordered by PSC or any other Governmental Authority to be so communicated. Competitive Supplier shall notify Program Manager at least two (2) weeks before a direct communication to Participating Customer~~Participating Consumer~~ is to be mailed. Program Manager shall provide Program General Communications insert file within seven (7) calendar days of receiving such notice.

Competitive Supplier agrees to allow and facilitate the Program Manager to utilize the supplier messages area of the bill for Program communications.

5.8 PARTICIPATING CUSTOMER~~Participating Consumer~~ LISTS

To the extent not prohibited by any Governmental Rule or expressly by any Participating Customer~~Participating Consumer~~(s), the Competitive Supplier shall, upon request of the Municipality or of Program Manager, provide aggregate consumption information as the Municipality or Program Manager may request to the extent such information is available to Competitive Supplier. Competitive Supplier shall provide Participating Customer~~Participating Consumer~~ lists in an electronic format, secure transfer mode, frequency and format as set out in Exhibit D, subject to non-disclosure agreement for customers who have not requested that their personal information be denied to Program Manager or to Municipality.

5.9 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this ESA.

5.10 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier requests the Municipality's assistance in obtaining such consent or approval and the Municipality anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine whether it will continue to request the Municipality's assistance, and if so, the Competitive Supplier shall reimburse the Municipality for all costs, up to the estimated dollar amount, reasonably incurred by the Municipality in connection with such efforts.

ARTICLE 6 ROLE OF THE MUNICIPALITY

Under this ESA, the Municipality shall not actually receive, take title to, or be liable for the supply or delivery of Firm Full-Requirements Power Supply in any manner whatsoever. The

Parties specifically agree that the role of the Municipality is established under the PSC Orders and Local Law and may include negotiating the terms and conditions under which Firm Full-Requirements Power Supply will be provided by the Competitive Supplier under this ESA. It is the sole obligation of the Competitive Supplier to arrange for delivery of Firm Full-Requirements Power Supply to ~~Participating Customer~~ Participating Consumers. The Parties agree that, with regards to electricity, Municipality is not a “public utility company” or providing any “public utility service” within the meaning of GML 360 and Article 4 of Public Service Law as a result of this ESA. Should a court, PSC, or other lawful authority adjudicate to the contrary, the provisions of 4.2 a) shall apply. However, the Municipality may be considered to be operating a municipal load aggregation plan pursuant to the PSC Orders and Local Law. The Competitive Supplier hereby agrees that it will take no action, whether directly or through its Associated Entities, that would make the Municipality liable to any ~~Participating Customer~~ Participating Consumer due to any act or failure to act on the part of the Competitive Supplier or its Associated Entities relating to the delivery or supply of Firm Full-Requirements Power Supply.

Municipality may conduct outreach to the community in addition to the initial program notification letter, which will be delivered at the Competitive Supplier’s expense, with a Business Reply Mail insert to allow Eligible ~~Customer~~ Consumers to opt out without postage expense. Municipality will report on their endeavors to Program Manager to inform residents on the Program and “non-demand charge” commercial businesses. In case of any doubt, Municipality shall retain final control of content related to all communications.

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ARTICLE 7 ROLE OF PROGRAM MANAGER

7.1 PROGRAM MANAGER DUTIES

Sustainable Westchester Inc, as Program Manager, agrees to:

- a. Provide the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, requested information about and documentation of the actions undertaken by the Municipality in furtherance of enabling participation in the Program;
- b. Prepare, or cause to be prepared, and provide the Municipality with requested and non-confidential information that the involved agencies and parties, such as but not limited to the PSC or Distribution Utility, provide to the Program Manager in furtherance of establishing the Program;
- c. Upon execution hereof, initiate all the necessary steps to secure the needed information to fulfill the customer notification requirements of the PSC Orders, including but not limited to the following:

“5. Sustainable Westchester, Inc., its municipal members, and any other municipal contractors receiving the personally identifiable information of utility customers shall agree to protect that information consistent with the discussion in the body of this Order, and shall submit their agreement to Department of Public Service Staff at the time the letter certifying authorization discussed in the body of this Order is submitted.

6. Sustainable Westchester, Inc. will file any Requests for Proposals, or Requests for Information, and similar documents, as well as any contracts entered into for energy supply, at the time they are issued.”

Agreeing to protect that information consistent with the discussion in the body of this Order, and shall submit their agreement to Department of Public Service Staff at the time the letter certifying authorization discussed in the body of this Order is submitted.

In addition, Program Manager will file any Requests for Proposals, or Requests for Information, and similar documents, as well as any contracts entered into for energy supply, at the time they are issued.

- d. Sign the ESA in a timely fashion including the conditions that the Competitive Supplier is verified to be a qualified electricity supplier by the NYISO in the Distribution Utility's service territory and the Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed compliant with the terms and conditions set forth in the ESA;
- e. Provide the Municipality with timely communications content to implement effect customer notification requirements for approval, not to be unreasonably withheld, given the projected schedule of Program's implementation;
- f. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager's inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities; and
- g. Fulfill any other responsibilities as set forth in this agreement herein.

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7.2 PROGRAM MANAGER FEE

Competitive Supplier shall pay Program Manager \$0.001 for each kWh delivered, invoiced and paid for by Participating Customer~~Participating Consumers~~ during the Term ("Program Manager Fee" or "Fee"). The Parties agree that Competitive Supplier will remit the Program Manager Fee to the Program Manager, pursuant to the terms of this ESA. Competitive Supplier shall pass through such payments to Sustainable Westchester, Inc. for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

7.3 PAYMENT OF FEE

Payment to Program Manager will be made monthly by Automated Clearing House ("ACH") (an electronic network for financial transactions) to the account set forth in Exhibit C hereto, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Customer~~Participating Consumers~~. The Program Manager Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Customer~~Participating Consumer~~ during the calendar month two months prior. For example, full payments received in January will be paid by the end of March. If Competitive Supplier has paid a past Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due under this ESA and provide explanation of the error in sufficient detail. Program Manager shall provide the Municipality with a reasonably detailed accounting not less than annually of the program impact, financial and other, including revenues received and expenses incurred on communication, administration and legal expenses.

7.4 INDEPENDENT CONTRACTOR

The Parties agree that Program Manager is not an agent or employee of Competitive Supplier for any purpose. All expenses which are incurred by Program Manager in connection with this ESA shall be borne wholly and completely by Program Manager. Program Manager shall be responsible for all state, federal, and local taxes, including estimated taxes and social security and employment reporting for Program Manager or any employees or agents of Program Manager.

7.5 AUCTION SERVICE FEE

Competitive Supplier shall pay the auction service company, Transparent Energy ("Auction Service Company"), \$0.0001 for each kWh delivered, invoiced and paid for by Participating Customers during the Term ("Auction Service Fee"). The Parties agree that Competitive Supplier will remit the Auction Service Fee to the Program Manager for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

Payment to the Auction Service Company shall be made monthly by ACH to the account indicated by the Auction Service Company, provided that Competitive Supplier has received payment with respect to the electricity used by the Participating Customers.

The Auction Service Fee shall be paid by the last business day of the month based on revenue collected by Competitive Supplier with respect to each Participating Customers during the calendar month two months prior. For example, for full payments received from Participating Customers in January the Auction Service Fee associated with those payments will be paid by the end of March. If Competitive Supplier has paid a past Auction Service Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due to the Auction Service Company and provide a sufficiently detailed explanation of the error.

ARTICLE 8 PRICES AND SERVICES; BILLING

8.1 SCHEDULE OF PRICES AND TERMS

Competitive Supplier agrees to provide Firm Full-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this ESA, which Exhibit is hereby incorporated by reference into this ESA.

8.2 OBLIGATION TO SERVE

As between the Parties, Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide Firm Full-Requirements Power Supply for all of the Participating CustomerParticipating Consumers under the Program. Competitive Supplier, except as explicitly limited by the terms included in Exhibit A, shall be obligated to accept all Participating CustomerParticipating Consumers, regardless of their

location or energy needs provided such ~~Participating Customer~~Participating Consumers are eligible under the applicable regulations and tariffs of the Distribution Utility.

8.3 METERING

The Distribution Utility will be responsible for any metering which may be required to bill ~~Participating Customer~~Participating Consumers in accordance with the Distribution Utility's Terms and Conditions for Competitive Suppliers.

8.4 TERMS AND CONDITIONS PERTAINING TO INDIVIDUAL ACCOUNT SERVICE

8.4.1 Title

Title to Firm Full-Requirements Power Supply will transfer from Competitive Supplier to ~~Participating Customer~~Participating Consumers at the Point of Sale. In accordance with the Distribution Utility's Terms and Conditions for Competitive Suppliers, the Competitive Supplier will be responsible for any and all losses incurred on the local network transmission systems and distribution systems, as determined by the Distribution Utility.

8.4.2 Billing and Payment

Unless otherwise specified in an Exhibit to this ESA, all billing under this ESA shall be based on the meter readings of each ~~Participating Customer~~Participating Consumer's meter(s) performed by the Distribution Utility. Competitive Supplier shall cause the Distribution Utility to prepare and mail bills to ~~Participating Customer~~Participating Consumers monthly. The Competitive Supplier shall adopt the billing and payment terms offered by the Distribution Utility to its Eligible CustomersConsumers on Default Service. If actual meter date is unavailable, the Competitive Supplier may cause the Distribution Utility to bill based on its good faith estimates of usage. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

8.4.3 Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Utility under its distribution service tariff or local transmission costs as may be imposed by NYISO or individual electric utilities that have FERC transmission tariffs. The Competitive Supplier understands that these costs will be collected by the Distribution Utility. If, in the future, Competitive Supplier becomes responsible for such distribution or transmission costs, Competitive Supplier shall be entitled to collect such costs from ~~Participating Customer~~Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

8.4.4 Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of Firm Full-Requirements Power Supply required to be collected by the Competitive Supplier shall be included on the ~~Participating Customer~~~~Participating Consumer's~~ bill and shall be remitted to the appropriate taxing authority by Competitive Supplier. For avoidance of doubt, it is understood that the Competitive Supplier shall include gross receipts tax in its preparation of ~~Participating Customer~~~~Participating Consumers'~~ bills. ~~Participating Customer~~~~Participating Consumers~~ shall be responsible for all taxes that are customarily imposed upon a purchaser of electricity and are associated with electricity consumption under the ESA. ~~Participating Customer~~~~Participating Consumers~~ shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier. For avoidance of doubt, Competitive Supplier shall be responsible for all taxes imposed upon it as a supplier of electricity, including taxes on Competitive Supplier's income.

ARTICLE 9 COMPLIANCE WITH THE PSC ORDERS

Competitive Supplier agrees that it, and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA, will comply with the applicable provisions of the PSC Orders and any regulations, orders or policies adopted pursuant thereto.

ARTICLE 10 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS~~CONSUMERS~~

10.1 UNIFORM BUSINESS PRACTICES COMPLIANCE

Competitive Supplier agrees that it and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA shall comply with the provisions of the Uniform Business Practices, as applicable to Competitive Suppliers, and any amendments thereto, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program. In addition, the Competitive Supplier and its Associated Entities agrees to comply with any code of conduct or policies the PSC may adopt in accordance with the PSC Orders and to all related Orders of Case 14-M-0564 and 14-M-0224 to which the Program Manager is required to adhere, notwithstanding any relief from the Uniform Business Practices offered by the PSC to the Program.

10.2 DESCRIPTION OF SUPPLIER'S PROCEDURES AND SERVICES

The Competitive Supplier shall, on or before the Effective Date, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Municipality (which approval shall not be unreasonably withheld). Such written description shall also include the Competitive Supplier's plans for protecting the rights and protections of ~~Participating Customer~~~~Participating Consumers~~ under the Home Energy Fair Practices Act which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. If the ~~Participating Customer~~~~Participating Consumer(s)~~ so permit(s) or to the extent such permission is required by law or the terms of any PSC order with respect to this ESA, the Competitive Supplier

agrees to provide notice to the Municipality of any ~~customer~~ consumer complaints received from a ~~Participating Customer~~ Participating Consumer, and the Municipality shall have the right, but not the obligation, to participate in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by PSC regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with PSC regulations and policies, shall be deemed grounds for termination of this ESA, at the discretion of the Municipality after providing written notice of such failure to the Competitive Supplier and allowing the Competitive Supplier sixty (60) days to cure such failure.

10.3 DISPUTE RESOLUTION

In accordance with the Uniform Business Practices, in the event of a dispute regarding an invoice or Competitive Supplier's service, whether directly or through its Associated Entities, under this ESA, a ~~Participating Customer~~ Participating Consumer may initiate a formal dispute resolution process by providing written notice to the PSC. The PSC will assist the Parties in reaching a mutually acceptable resolution. If no such resolution is reached within 40 calendar days of receipt of the formal written notice, any Party may request an initial decision from PSC. Parties may appeal this decision.

ARTICLE 11 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Competitive Supplier agrees that it shall conduct its operations and activities under this ESA in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees, and will require all Associated Entities to do the same.

ARTICLE 12 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

12.1 POWER SUPPLY INFORMATION

12.1.1 ~~Monthly~~ Quarterly Report of Sales

Competitive Supplier shall provide the Municipality or its agent with the following monthly reports as shown on Exhibit B attached hereto within 30 days of the end of the month:

1. kWh and counts disaggregated by municipality, utility zone, customer type, rate class, product
2. Add-Drop report with count of transactions for drop categories Moved, Changed Supplier, Opt-out, Other, and add categories of Opt-in and Newly Eligible.

All reports provided under this 12.1 shall be provided in electronic format, a quarterly report of sales which will contain: (i) the actual aggregate kWh sales for each meter read of the reporting period and (ii) the number of ~~Participating Customer~~ Participating Consumer accounts active in each meter read of the reporting period, as well as the kWh and number of accounts disaggregated by rate class (residential and small commercial) and product (Standard and 100% Renewable). The quarterly report will be due to the Municipality or its agent within

sixty (60) days following the close of each quarter (March 31, June 30, September 30, and December 31). The aggregate kWh sales and number of Participating CustomerParticipating Consumer accounts shall be listed in the report both by rate code and rate name as shown on Exhibit B attached hereto. This information shall be provided in electronic format.

12.1.2 CustomerConsumer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain customerconsumer-related data in electronic form including utility account number, billing name, billing address, service address historical usage, demand, and ICAP (Installed Capacity) data. A violation of this Article 12.1.2 shall be grounds for termination under Article 4.2(a) unless such violation is due to a system or reasonable administrative error and the Competitive Supplier demonstrates to the Municipality's satisfaction that such system or administrative error exists and that the Competitive Supplier is acting in good faith to resolve such issue.

12.1.3 Standard of Care

Competitive Supplier and its Associated Entities shall use all Commercially Reasonable efforts in preparing and providing any information or data required under the ESA. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall provide corrections to such information or data to the Municipality or its agent within a Commercially Reasonable time.

12.2 POWER SUPPLY REPORT

Competitive Supplier agrees to comply with any current and/or future rules and regulations related to Environmental Disclosure Labels in the State of New York, including once finalized by the PSC and/or the New York State Energy Research and Development Authority and available to Competitive Supplier, the creation of separate labels to reflect renewable CCA products within the Competitive Supplier's portfolio, as well as individual municipal renewable purchases within the CCA program.

Unless the Environmental Disclosure Label requirement is waived by PSC, within fifteen (15) days of the end of the quarter, Competitive Supplier shall present a copy of the current Environmental Disclosure Label required by the PSC of all Competitive Suppliers to be disclosed to their Participating CustomerParticipating Consumers, which includes information pertaining to Competitive Supplier's power supply and a reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating CustomerParticipating Consumers pursuant to this ESA, except to the extent such disclosure would violate any confidentiality obligations of Competitive Supplier.

12.3 BOOKS AND RECORDS

Competitive Supplier shall keep their books and records in accordance with any applicable regulations or guidelines of PSC, FERC, and any other Governmental Authority. The Municipality will have electronic access to any reports mandated by the Securities and Exchange

Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Municipality and at the Municipality's reasonable expense, Competitive Supplier or its Associated Entities shall provide reasonable back up for any charge under this ESA questioned by the Municipality.

12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Municipality a copy of each public periodic or incident-related report or record relating to this ESA which it files with any New York or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Competitive Supplier is required by law or regulation to keep such reports confidential. Competitive Supplier shall be reimbursed its reasonable costs of providing such copies, if only available in hard copy.

ARTICLE 13 RESOLUTION OF DISPUTES; CHOICE OF LAW AND FORUM

13.1 CHOICE OF LAW AND FORUM

This ESA and the rights of the Parties shall be interpreted and determined in accordance with the laws of the State of New York without respect to conflicts-of-laws principles. Any litigation arising hereunder shall be brought solely in the appropriate federal court in New York or appropriate state court sitting in the New York county in which the Municipality is located, to whose jurisdiction the Parties hereby assent, waiving all objections to venue or forum.

13.2 DISPUTE RESOLUTION

Unless otherwise provided for in this ESA, the dispute resolution procedures of this Article 13.2 shall be the exclusive mechanism to resolve disputes arising under this ESA. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this ESA. Any dispute that arises under or with respect to this ESA that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties may seek judicial enforcement subject to the provisions of this ESA. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this ESA.

ARTICLE 14 INDEMNIFICATION

14.1 INDEMNIFICATION BY THE COMPETITIVE SUPPLIER

In addition to any other remedies available to the Municipality at law or equity, and notwithstanding any other provision contained herein, the Competitive Supplier shall indemnify,

defend and hold harmless the Municipality and the Program Manager ("Indemnified Parties") and the Indemnified Parties' officials, officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Competitive Supplier or its Associated Entities of its obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Distribution Utility, the Municipality or its employees or agents, or (ii) any action or omission taken or made by the Competitive Supplier or its Associated Entities in connection with Competitive Supplier's performance of this ESA.

14.2 NOTICE OF INDEMNIFICATION CLAIMS

If the Municipality or Program Manager seeks indemnification pursuant to this Article 14, it shall notify Competitive Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim.

14.3 SURVIVAL

Notwithstanding any provision contained herein, the provisions of this Article 14 shall survive the termination of this ESA for a period of two (2) years with respect to (i) any claims which occurred or arose prior to such termination and (ii) any losses occurring as a result of the termination.

14.4 DUTY TO MITIGATE

Each Party agrees that they have a duty to mitigate damages and covenant that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this ESA.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 BY THE COMPETITIVE SUPPLIER

As a material inducement to entering into this ESA, the Competitive Supplier hereby represents and warrants to the Municipality as of the Effective Date of this ESA as follows:

- a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this ESA;
- b) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

- c) the execution, delivery and performance of this ESA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- d) subject to the conditions set forth in Article 2.4, this ESA constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations to the Municipality in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;
- e) no Bankruptcy is pending against it or to its knowledge threatened against it;
- f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to or for the benefit of the Municipality pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- g) all information furnished by Competitive Supplier in response to the Request for Proposals for competitive electric supply services is true and accurate.

15.2 BY THE MUNICIPALITY

As a material inducement to entering into this ESA, the Municipality hereby represents and warrants to Competitive Supplier as of the Effective Date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of the Municipality enforceable in accordance with its terms, subject to applicable law;
- b) the execution, delivery and performance of this ESA are within the Municipality's powers, have been or will be duly authorized by all necessary action;
- c) Municipality has all authorizations from local Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against the Municipality;

15.3 BY THE PROGRAM MANAGER

As a material inducement to entering into this ESA, the Program Manager hereby represents and warrants to Competitive Supplier and Municipality as of the Effective Date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of Program Manager enforceable in accordance with its terms, subject to applicable law
- b) the execution, delivery and performance of this ESA are within Program Manager's powers, have been or will be duly authorized by all necessary action;
- c) Program Manager has all authorizations from any local or state Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such

- authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against Program Manager.

ARTICLE 16 INSURANCE

16.1 In order to help support the indemnifications provided in Article 14, and its other promises and covenants stated herein, Competitive Supplier shall secure and maintain, at its own expense, before the Effective Date and throughout the term of this ESA, unless otherwise specified, commercial general liability insurance of at least \$1,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers licensed to do business in the State of New York. Each of the required insurance policies shall be with insurers qualified to do business in the State of New York, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition. In the event the Competitive Supplier's insurance carrier is downgraded to a rating of lower than Best's A-, Competitive Supplier shall have ninety (90) days to obtain coverage from a carrier with a rating of at least Best's A-. A certificate that each such insurance coverage is in force and effect, and listing the Municipality as an additional insured on all policies, shall be submitted on or before the Effective Date and thereafter whenever renewed or requested by the Municipality. All insurers must be notified that the insurance policies must provide that a copy of any notice of cancellation or non-renewal will be sent to the Municipality.

16.2 With respect to any of the insurance policies provided by the Competitive Supplier pursuant to these requirements which are "claims made" policies, in the event at any time such policies are canceled or not renewed, the Competitive Supplier shall provide a substitute insurance policy with terms and conditions and in amounts which comply with these requirements and which provides for retroactive coverage to the date of the cancellation or non-renewal of the prior "claims-made" policy. With respect to all "claims made" policies which have been renewed, the Competitive Supplier shall provide coverage retroactive to the Effective Date under this ESA. All said substitute or renewed "claims made" policies shall be maintained in full force and effect for three (3) years from the date of the termination of the ESA.

16.3 Competitive Supplier, to the extent required by law, must provide worker's compensation insurance meeting all applicable state and federal requirements.

ARTICLE 17 REGULATORY EVENT/NEW TAXES

17.1 REGULATORY EVENT

If a Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If despite such best efforts, a Regulatory Event affects Competitive Supplier and Program Manager and Municipality agree that Competitive Supplier is incurring excess costs as a result thereof and agrees that Competitive Supplier may recover such costs, such amount shall be allocated to and collected from ~~Participating Customer~~Participating Consumers on a per kWh basis through applicable monthly invoice(s).

17.2 QUALIFYING REGULATORY EVENT

If a Qualifying Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If a Qualifying Regulatory Event affects Competitive Supplier and Competitive Supplier incurs excess costs as a result thereof, such amount shall be allocated to and collected from ~~Participating Customer~~ ~~Participating Consumers~~ on a per kWh basis through applicable monthly invoice(s).

17.3 NEW TAXES

If any New Taxes are imposed for which Competitive Supplier is responsible, the amount of such New Taxes shall be allocated to and collected from ~~Participating Customer~~ ~~Participating Consumers~~ through applicable monthly invoice(s).

ARTICLE 18 MISCELLANEOUS

18.1 NO ASSIGNMENT WITHOUT PERMISSION

Except in the event of the sale of all or substantially all of its retail electricity business to an entity with credit and service ability to deliver on all facets of this ESA reasonably acceptable to Municipality, Competitive Supplier or Program Manager shall not directly or indirectly assign this ESA or any of its rights, obligations and privileges under this ESA without the prior written approval of the Municipality. Such approval may be denied at the reasonable discretion of the Municipality, including if the proposed assignee does not have the experience and financial ability to fulfill all obligations of the Competitive Supplier or Program Manager in the ESA. Notwithstanding the above, any assignment of this ESA by the Competitive Supplier, whether as the result of the sale of all or substantially all of the Competitive Supplier's business related to this ESA or otherwise, shall be subject to the following requirements: (i) Competitive Supplier shall provide the Municipality with notice of the proposed assignment at least ninety (90) days prior to such assignment; (ii) Competitive Supplier's assignee shall agree in writing to be bound by the terms and conditions of this ESA; and (iii) Competitive Supplier and such assignee shall, at least ninety (90) days in advance of any assignment, reasonably demonstrate to Municipality that assignee has the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. The Municipality or Program Manager may assign this ESA without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same financial ability as the Municipality or Program Manager and such assignment would not materially impair the rights and interests of Competitive Supplier under this ESA. The rights and obligations created by this ESA shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

18.2 DIRECT MARKETING

Prior to the introduction of any new product or service which Competitive Supplier may wish to make available to ~~Participating Customer~~ ~~Participating Consumers~~ or other Eligible ~~Customers~~ ~~Consumers~~ located within the Municipality, Competitive Supplier agrees to (i) give the Municipality written notice of such new product or service and (ii) subject to the entry into

reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Municipality the possible inclusion of such new product or service in this or another aggregation program undertaken by the Municipality.

Competitive Supplier also agrees not to engage, whether directly or through any of its Associated Entities, in any direct marketing to any ~~Participating Customer~~~~Participating Consumer~~ that relies upon Competitive Supplier's unique knowledge of, or access to, ~~Participating Customer~~~~Participating Consumers~~ gained as a result of this ESA. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Competitive Supplier and the ~~Participating Customer~~~~Consumer~~. Programs of the Competitive Supplier that do not rely on unique knowledge or access gained through this ESA will not constitute such "direct marketing."

18.3 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this ESA shall be in writing and addressed to:

If to Competitive Supplier:

If to Municipality:

and if to Program Manager:

Executive Director
Sustainable Westchester Inc
55 Maple Ave.
Mount Kisco, NY 10549

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this ESA; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this ESA; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this ESA. Any party may change its address and contact person for the purposes of this Article 18.3 by giving notice thereof in the manner required herein.

18.4 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name or telephone number of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt notice to the Municipality and the Program Manager in the manner set forth in Article 18.3. In the event that the name or telephone number of any such contact person for the Municipality changes, prompt notice shall be given to the Competitive Supplier and the Program Manager in the manner set forth in Article 18.3. In the event that the name or telephone number of any such contact person for the Program Manager changes, prompt notice shall be given to the Competitive Supplier and the Municipality in the manner set forth in Article 18.3.

18.5 ENTIRE ESA; AMENDMENTS

This ESA constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This ESA may only be amended or modified by a written instrument signed by all Parties hereto, duly authorized to sign such instrument.

18.6 FORCE MAJEURE

If by reason of Force Majeure any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the Force Majeure, gives the other Party hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If (i) an event of Force Majeure caused by any strikes, lockouts or other industrial disturbances involving Competitive Supplier or its Associated Entities continues for a period of thirty (30) days or longer, or (ii) an event of Force Majeure arising from any other cause continues for a period of one hundred eighty (180) days or longer, any Party may terminate this ESA by sending the other Party a written notice as set forth in Article 4.2; provided, however, that the same shall not constitute a default under this ESA and shall not give rise to any

damages. Additionally, Competitive Supplier shall submit all ~~customer~~ consumer drops via EDI to the Distribution Utility in accordance with the rules and regulations set forth by the PSC in Case 98-M-0667.

18.7 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this ESA, including without limitation, all of its attorney's fees and expenses.

18.8 NO JOINT VENTURE

Each Party will perform all obligations under this ESA as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Municipality and the Competitive Supplier hereunder are individual and neither collective nor joint in nature.

18.9 JOINT WORK PRODUCT

This ESA shall be considered the work product of all Parties hereto, and, therefore, no rule of strict construction shall be applied against any Party.

18.10 COUNTERPARTS

This ESA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

18.11 WAIVER

No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this ESA shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this ESA shall only be effective with respect to an obligation to the waiving Party and shall only be effective if made in writing and signed by the Party who is making such waiver.

18.12 ADVERTISING LIMITATIONS

Competitive Supplier agrees not to use, whether directly or through any of its Associated Entities, the name of the Municipality, or make any reference to the Municipality in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Municipality expressly agrees to such usage. Any proposed use of the name of the Municipality must be submitted in writing for agreement and prior written approval which may be withdrawn through a notice in writing at any time. The Municipality acknowledges that the

Competitive Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted to the Municipality hereunder, and the Municipality agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

18.13 PRESS RELEASES

The Parties agree to cooperate in good faith prior to the issuance of any formal press release with respect to this ESA, such cooperation to include agreement as to the form, substance and timing of such formal press release.

18.14 HEADINGS AND CAPTIONS

The headings and captions appearing in this ESA are intended for reference only, and are not to be considered in construing this ESA.

18.15 SURVIVAL OF OBLIGATION

Termination of this ESA for any reason shall not relieve the Parties of any obligation accrued or accruing prior to such termination.

ARTICLE 19 REMEDIES

19.1 GENERAL

Subject to the limitations set forth in Article 19.2 below and Article 4, the Parties reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party hereto under this ESA.

19.2 LIMITATIONS

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, each Party acknowledges that the preceding sentence shall not limit the other Party's rights to seek direct damages or, under Article 14.1, to seek indemnification from Competitive Supplier for consequential, punitive, or incidental damages described in the preceding sentence or other such losses claimed by third- parties.

19.3 DISCLAIMER

COMPETITIVE SUPPLIER MAKES NO WARRANTIES HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

//Signatures Follow//

IN WITNESS WHEREOF, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York, as of the respective dates set forth below

COMPETITIVE SUPPLIER

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

MUNICIPALITY

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

PROGRAM MANAGER

By: _____

Name: Nina OrvilleTitle: Executive DirectorAddress: 40 Green Street, Mount Kisco, NY 10549

Name: _____

Title: _____

Address: _____

Dated: _____

EXHIBIT A – PART 1 PRICES AND TERMS – STANDARD PRODUCT

Firm Full-Requirements Price by Rate Classification for all ~~Participating Customer~~ Participating Consumers located in **New York State Electric & Gas** territory commencing service on the first ~~customer~~ consumer meter-read date after ~~November~~ December ~~November 30~~ November 30, 20210.

Table 1:

Rate Class	Fixed Price per kWh	
Residential	\$0.0###	
Small Commercial	\$0.0###	

Terms for System Supply Service

~~Term:~~ The Price and Terms stated on this Exhibit A will commence on the first ~~customer~~ consumer meter read date after November 30, 20210 and continue until the first ~~customer~~ consumer meter read date after _____ for each Participating Customer, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA. ~~The Parties agree they may extend this Agreement up to _____ months upon mutual written agreement to amend the Term.~~

The period of delivery of Firm Full-Requirements Power Supply shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Start-Up Service Date: Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Customer ~~Participating Consumer's~~ first meter read dates after November 30, 20210.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy and Renewable Energy Certificates in the Firm Full-Requirements Power Supply mix in an amount equal to New York State's Renewable Portfolio Standards in a manner designated by New York State.

Eligible ~~Customer~~ Consumer Opt-Out: Participating Customer ~~Participating Consumers~~ are free to opt-out of the Program utilizing established EDI drop protocols. Participating Customer ~~Participating Consumers~~ are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Customer ~~Participating Consumers~~ to opt-out or terminate service.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any ~~customer~~ consumer participating in the Program, nor will Competitive Supplier require any ~~customer~~ consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating

~~Customer~~Participating Consumer and return such ~~customer~~consumer to Default Service in the event that the ~~customer~~consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Supplier shall serve Newly Opt-out Eligible ~~Customers~~Consumers, as well as Eligible Customers who opt-in to the Program, who enroll or are enrolled into the Program after the first ~~customer~~Consumer meter-read date referred to above at the fixed price in Table 1 above.

EXHIBIT A- PART 2 PRICES AND TERMS- 100% RENEWABLE CLEAN POWER PRODUCT

Firm Full-Requirements Price for 100% Renewable Clean Power Product by Rate Classification for all Participating Customer~~Participating Consumers~~ located in New York State Electric & Gas territory commencing service on the first customer~~Consumer~~ meter-read date after November 30, 20210.

Table 23:

Rate Class	Fixed price per kWh
Residential	\$0.0####
Small Commercial	\$0.0####

Terms for System Supply Service

~~Term:~~ The Price and Terms stated on this Exhibit A will commence on the first customer~~Consumer~~ meter read date after November 30, 20210 and continue until the first customer~~Consumer~~ meter read date after _____ for each Participating Customer, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

The period of delivery of 100% Renewable Clean Power Product shall be consistent with the provisions of Article 4 and Exhibit A – Part 2 of this ESA.

Start-Up Service Date: 100% Renewable Clean Power Firm Full-Requirements Power Supply will commence at the prices stated above as of Participating Customer~~Participating Consumer's~~ first meter read dates after November 30, 20210.

Renewable Portfolio Standards ("RPS Requirements"): The standard electricity generation mix offered to Participating Customers under the Standard Electricity Product shall meet the minimum RPS Requirements for electric power designated by New York State.

100% New York Voluntary Tier II Clean Power RECs -- This Exhibit A-Part 2 includes a voluntary purchase of Renewable Energy Certificates ("RECs") sourced from NY Tier II Voluntary Renewable Resources in an amount equal to 100% of the Participating Customers' electricity usage, less any then-current Tier I REC purchase associated with the RPS Requirements applicable to alternative retail electric suppliers in New York. For clarifications purposes, this amount includes any then-current New York renewable energy standard requirements applicable to alternative retail electric suppliers in New York as of the Effective Date of this Agreement plus additional NY Tier II Voluntary RECs in an amount equal to 100% of the customer's usage. Each REC represents environmental attributes associated with one MWh of electricity generated by a renewable fuel type defined by the New York Generation Tracking System ("NYGATS") Operating Rules, dated May 18, 2018, but does not include any

tax credits, depreciation allowances or third party subsidies of any kind. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program. For purposes of this Agreement:

i. "NY Tier 2 Renewable Resource" means any electric power generator meeting the definition of a "renewable energy system," as that term is defined in the New York Climate Leadership and Community Protection Act, and meeting the requirements of a Tier II Renewable Energy Certificate as defined by the PSC or DPS Staff. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program. RECs will be retired for all participants collectively at the Program level.

This Exhibit A Part 2 includes a purchase of Renewable Energy Certificates sourced from hydropower, solar energy or wind energy generating facilities ("RECs") in an amount equal to 100% of the Participating Customer Participating Consumers' electricity usage less any then-current Tier I REC purchase obligation applicable to alternative retail electric suppliers in New York. Each REC represents Attributes associated with one MWh of electricity generated by a renewable fuel type defined by the New York Generation Tracking System ("NYGATS") Operating Rules, dated May 18, 2018, but does not include any tax credits, depreciation allowances or third party subsidies of any kind. Competitive Supplier does not represent or warrant that the RECs purchased hereunder can be used as offsets or otherwise for compliance with any emission reduction or similar program.

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Eligible Customer Consumer Opt-Out: Participating Customer Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Customer Participating Consumers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Customer Participating Consumers to opt-out or terminate service.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any customereonsumer participating in the Program, nor will Competitive Supplier require any customereonsumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Customer Participating Consumer and return such customereonsumer to Default Service in the event that the customereonsumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Supplier shall serve Newly Opt-out Eligible CustomersConsumers, as well as Eligible Customers who opt-in to the Program, who enroll and are enrolled into the Program after the first customereonsumer meter-read date referred to above at the price in Table 23, above.

In the event that New York State institutes a subsidy for CCA purchase of RECs after the signing of this ESA that is applicable to all or any portion of the Competitive Suppliers obligations under this ESA, Competitive Supplier shall pass through the full subsidy to Participating Customer Participating Consumers in the form of a rate reduction.

**EXHIBIT B - TEMPLATE KWH SALES AND CUSTOMERCONSUMER ACCOUNTS
DATA SUMMARY**

Rate Code	Residential	Small Commercial
Standard Supply		
Municipality		
# of Default Accounts of Eligible <u>Customers</u> Consumers		
	kWh	kWh
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

Rate Code	Residential	Small Commercial
100% Renewable Supply		
Municipality		

# of Default Accounts of Eligible CustomersConsumers		
	kWh	kWh
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

EXHIBIT C - PAYMENT

PROGRAM MANAGER BANK INFORMATION FOR PAYMENTS BY ACH

Bank Name:

Bank Routing Number:

Bank Account Number:

Federal ID:

EXHIBIT D - DATA REQUIREMENTS

In order for program administrators and participants to have visibility into their participation with the program, certain data will need to be exchanged, in a regular format, with regular transmission methods and times.

There are three file formats currently in use for this purpose which must be provided by Competitive Supplier to Program Manager:

1. Newly Opt-out Eligible Customer file - Competitive Supplier will obtain this data quarterly from the Utility and the notification mailing is made from the list following procedures described elsewhere in this ESA. The Program Manager requires a matching dataset as defined below in order to perform its duties for customer service during the opt out period.
2. Post-enrollment file - After the Competitive Supplier sends enrollments to the Utility, either at the beginning of this contract or after a Newly Opt-out Eligible Customer opt out period, the Competitive Supplier will send this file to the Program Manager to update its records.
3. Commission file - Standard practice for aggregation suppliers.

The abovementioned files should, at minimum, contain the following information:

<u>Newly Opt-out Eligible Customer</u> <u>file</u>	<u>Post-enrollment file</u>	<u>Commission file</u>
Pre-Enrollment ID Customer Name Service Address Service City State Zip Mailing Address Mail City State Zip Customer Classification Rate Category	Pre-Enrollment ID Utility Account Number Meter Read Cycle Account Start Account End Enrollment Issue/Reason Code Municipality Name Contract Start Contract End Rate Class Annual kWh Capacity Tag Capacity Start Date Capacity End Date Billing Name Billing Address Billing State Billing City Billing Zip Enrollment Date (Contract Start Date) Load Zone	Customer Name Service Account Number Invoice Number Contract ID Municipality Customer Class Invoice Date Start Date End Date Earned Date Scheduled Payment Month Usage UDC Code Commission Rate/Amount Commission Payment Lag (Days)

File transfer between the Supplier and Program Manager, or a party designated by Program Manager, shall be by SFTP or other secure mode.

EXHIBIT E - OPTION TO SUPPLY POWER

Competitive Supplier shall provide power to ~~Participating Customer~~Participating Consumers, including through the purchase of REC's, throughout the term of this ESA and from sources selected in Competitive Supplier's own discretion. However, Program Manager desires to build or contract with a third party to supply renewable sources of energy (the "Renewable Power Source") after the Effective Date of the Program for the benefit of the ~~Participating Customer~~Participating Consumers. Upon completion of any such Renewable Power Source the Program Manager may offer to sell output from the Renewable Power Source to Competitive Supplier, either directly or through an Associated Entity, under a separate Power Purchase Agreement ("PPA"). Upon mutual agreement of such arrangement and execution of the PPA, Competitive Supplier (or its Associated Entity) shall take the output of the Renewable Power Source for use for the Program. The Competitive Supplier and Program Manager agree that any such PPA shall include a provision requiring the the Competitive Supplier or the Program Manager to agree to a rate adjustment to ~~Participating Customer~~Participating Consumers in the following circumstances:

(i) In the event that executing the PPA makes it necessary for Competitive Supplier (or an Associated Entity) to sell power previously purchased to meet Competitive Supplier's obligations under this ESA at a lower price than Competitive Supplier paid for such power, the Program Manager shall agree to a rate adjustment to ~~Participating Customer~~Participating Consumers to compensate Competitive Supplier (or its Associated Entity) for any losses suffered by the Competitive Supplier as a result of the difference in price.

(ii) In the event that executing the PPA makes it necessary for Competitive Supplier (or an Associated Entity) to sell power previously purchased to meet Competitive Supplier's obligations under this ESA at a higher price than Competitive Supplier paid for such power, the Competitive Supplier (or an Associated Entity) shall agree to a rate adjustment to ~~Participating Customer~~Participating Consumers to compensate ~~Participating Customer~~Participating Consumers for any gains inured to the benefit of Competitive Supplier as a result of the difference in price.

Sent to: TB, TA, TC
7/28/2021 KD

Kim DeLucia

From: Tammi Savva
Sent: Wednesday, July 28, 2021 11:56 AM
To: Rick Morrissey
Cc: Kim DeLucia
Subject: Audio Video Communications Upgrade in the Town House Meeting Room | Submitted Bid Document from DNR Laboratories
Attachments: Audio Video Communications Upgrade Bid Document DNR Laboratories.pdf

Hi Rick,

This morning was the bid opening for the Audio Video Communications Upgrade in the Town House Meeting Room. One bid was presented by DNR Laboratories. They are the vendor who the Town of Bedford used and we met with prior to COVID.

Rob Lutz from DNR Laboratories met with me last week just to refresh his memory about the project and wanted to see the room again. He was at the bid opening today.

His original proposal from January 2020 was approximately \$45,000. Therefore, we budgeted \$45,000 this year for the project. He explained to me last week that pricing has increased on equipment due to the COVID-19 impact. The attached bid document reflects the total bid cost of \$56,643.

He also indicated that since COVID, many companies are incorporating a ZOOM setup in their project. It is not included in the bid as it was not in the description of the project. He said he can provide an additional estimate if we would like to incorporate that. Patty said if he submits it, we can include it as a change order.

Can we add this item to the August Town Board agenda?

Thank you,
TAMMI SAVVA
SENIOR OFFICE ASSISTANT
OFFICE OF SUPERVISOR RICK MORRISSEY
TOWN OF SOMERS
335 ROUTE 202
SOMERS, NY 10589
PHONE: 914-277-3637
FAX: 914-276-0082
WWW.SOMERSNY.COM

TEL: 914-277-3323
FAX: 914-277-3960

TOWN CLERK'S OFFICE

Town of Somers

WESTCHESTER COUNTY, N.Y.

Town House
335 Route 202
Somers, N.Y. 10589

PATRICIA KALBA
TOWN CLERK



NOTICE TO BIDDERS

TOWN OF SOMERS WESTCHESTER COUNTY, NEW YORK

NOTICE IS HEREBY GIVEN that sealed Bids will be received by the Town of Somers until 10:00 a.m. on July 28, 2021 at the Office of the Town Clerk of the Town of Somers, Town House, 335 Route 202, Somers, New York, 10589, at which time and place said sealed Bids will be publicly opened and read aloud, on the following:

To provide an Audio-Visual Communications Upgrade of the Town of Somers Meeting Room, 335 Route 202, Somers, New York 10589

Bid Documents may be obtained in the Town of Somers Town Clerk's Office, 335 Route 202, Somers, New York 10589 beginning Thursday, July 8, 2021 during regular business hours of 9:00 a.m. to 4:30 p.m.

A bank check in the amount of not less than 5% of the amount Bid or a Bid bond shall accompany the Bid. Bidders submitting a bank check as Bid security shall also submit a certificate of surety from a licensed surety bond company. Bidders submitting a Bid bond are not required to submit a certificate of surety.

The Bid must be submitted in a sealed envelope plainly marked "Town of Somers Audio-Visual Communications Upgrade Bid."

The Town of Somers reserves the right to accept or reject any or all Bids and to waive any informalities, in its discretion, and to award the contract in a manner deemed to be in the best interests of the Town of Somers.

BY RESOLUTION OF THE TOWN BOARD

March 5, 2020

Patricia Kalba
Town Clerk

TEL: 914-277-3323
FAX: 914-277-3960

TOWN CLERK'S OFFICE

Town of Somers

WESTCHESTER COUNTY, N.Y.

Town House
335 Route 202
Somers, N.Y. 10589

PATRICIA KALBA
TOWN CLERK



TOWN OF SOMERS
Westchester County, NY

Bid documents and specifications to provide an Audio-Visual Communications Upgrade of the Town of Somers Meeting Room, 335 Route 202, Somers, New York 10589

July, 2021

Bid Proposal

To: Town of Somers, Westchester County, New York

Bid Proposal Submitted by or on behalf of:

dnr Laboratories

(Name)

76 Westbury Park Road, Suite 101e Watertown, CT 06795

(Address)

203.263.0003

(Telephone #)

1. The Bidder declares that the Bidder has carefully examined the Bid Documents including but not limited to the Specifications and any Plans relating to the above-entitled matter and the work, and have also examined the site of the work, hereby offer and agree to furnish all materials, to fully and faithfully construct, perform, install, test, operate, and execute all work in the above-entitled matter in accordance with the Bid Documents relating thereto, and to furnish all labor, tools, implements, models, forms, transportation and materials necessary and proper for the purpose and the price/prices as given in the Bid Proposal.

2. The Bidder declares that, if the contract is awarded to the Bidder, the Bidder will execute the contract therefore, pursuant to the Bid Documents, and will furnish all required bonds and insurance, within five (5) days after the award of the contract, and if the Bidder fails to execute said contract within said period of time, and furnish the required bonds and insurance, that the Town of Somers (Town) shall have the power to rescind said award and also that the said Town shall retain the proceeds of the check submitted as Bid security, or require payment under any Bid bond submitted. The Bidder declares and agrees that the Bidder will commence the work after the contract execution in accordance with the directions of the Town and will complete the work fully and in every respect on or before the time specified in said contract.

3. The Bidder agrees that the Town reserves the right to select any one, combination of, or all the Bid items in this Bid Proposal for the Bidder to complete, without affecting any of the Bid prices. If alternative contracts are set forth in the Bid Documents, the Bidder agrees that the Town reserves the right to select any one, or combination of, the Bid Proposals of the alternative that are in the best interest of the Town. It is understood that any estimated quantities are not guaranteed.

4. The Bidder agrees that this is a firm Bid Proposal and shall remain in effect for a period of at least forty five (45) days from the date of the opening of Bids, and that within said period of forty-five (45) days, the Town may accept or reject this proposal, or this period may be extended by mutual agreement.

TOTAL BID FOR CONTRACT:

\$56,643.00

(written in numbers)

Fifty six thousand six hundred forty three dollars

(written in words)

Rob Lutz - dnr Laboratories

(Legal Name of Bidder)

By:



(Authorized Signatory)

Type of entity: corporation, partnership, individual (circle one)

Non-Collusive Bidding Certification

Made pursuant to Section 103-d of the New York State General Municipal Law, as amended

- A. By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint Bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:
- (1) The prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; and
 - (2) Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the opening, directly or indirectly, to any other Bidder or to any competitor; and
 - (3) No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purpose of restricting competition.
- B. A Bid shall not be considered for award nor shall any award be made where Sections A (1), (2) and (3) above have not been complied with, provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the Bid a signed statement that sets forth in detail the reasons therefore. Where Sections A (1), (2) and (3) above have not complied with, the Bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the Bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition. The fact that a Bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being Bid, does not constitute, without more, a disclosure within the meaning of Section A (1).

dnr Laboratories, LLC

Legal Name of Person, Firm or Corporation

76 Westbury Park Road

Suite 101e

Watertown, CT 06795

Address of Person, Firm or Corporation

Signature:

Robert Lutz

Print Name & Title:

Robert Lutz, Sales MGR

Dated: 7/27/21

Bid Bond

(To be submitted if a bank check is not submitted as Bid security)

KNOW ALL MEN BY THESE PRESENTS, that
we DNR Labs, LLC,

hereinafter called the Principal, as Principal, and
the CNA Surety,

of Sioux Falls, SD, a corporation duly organized
under the Laws of SD, hereinafter called the Surety, as Surety,
are held and firmly bound unto
Town of Somers

hereinafter called the Obligee in the sum
of \$56,643

Dollars (\$ 56,643), for the payment of which sum well and truly to be made, the said
Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and
assigns, jointly and severally firmly by these presents.

WHEREAS, the Principal has submitted a Bid to provide Audio-Visual Communications
Upgrade of the Town of Somers Meeting Room, 335 Route 202, Somers, New York 10589.

NOW, THEREFORE, if the Obligee shall accept the Bid of the Principal and the Principal
shall enter into a Contract with the Obligee in accordance with the terms of such Bid, and give such
insurance and such bond or bonds as may be specified in the Bidding or Contract Documents with
good and sufficient surety for the faithful performance of such Contract and for the prompt payment
of labor and material furnished in the prosecution thereof or in the event of the failure of the
Principal to enter such contract and give such insurance and such bond or bonds, the Principal shall
pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in
said Bid and such larger amount for which the Obligee may in good faith contract with another
party to perform the work covered by said Bid, then this obligation shall be null and void, otherwise
to remain in full force and effect.

SIGNED AND SEALED this 27 day of July, 2021.

In the presence of: Paul S. [Signature], Notary (Seal)

PRINCIPAL [Signature] WITNESS [Signature]

TITLE Sales Director (Seal)

SURETY [Signature] WITNESS [Signature]

TITLE VP

Statement of Qualifications

1. The following is a list of places where the Bidder has performed work of similar character and magnitude, together with references:

Description of Work	Cost	Name and Phone of
<u>Location & Date of Completion</u>	<u>(Approximate)</u>	<u>Engineer or Owner</u>
a. Town Hall Zoom Interface (ongoing)	\$38,000	Town of New Castle, NY (914) 414-2611
b. Zoom Interface/Hybrid Meeting (ongoing)	\$40,000	Town of Bedford, NY (914) 227-0623
c. Multi Camera Audio Video Upgrade - July 2021	\$52,000	Town of Watertown, CT (860) 945-5360
d. Audio Streaming - June 2021	\$41,000	First Church of West Hartford, CT (860) 309-1450
e. Live Stream System - December 2020	\$28,000	St. Thomas Episcopal Church - Mamaroneck (914) 327-5275

2. The full names and places of residences of all officers and principals in the bidding entity of the foregoing proposal are as follows:

Name
Don Gamsjager

Address
30 Central Ave, Middlebury, CT

Name
Rob Lutz

Address
9 Hopp Ground Lane, Bedford, NY 10506

Name

Address

3. A minimum of three (3) references including contact name and phone number must be submitted with the Bid.

1. Town of New Castle, NY
Jill Simon Shapiro, Town Administrator
914-238-4742
2. Town of Bedford, NY
Boo Fumagalli, Town Clerk
914-668-4534
3. Town of Watertown, CT
Michael Simmons, IT Dept.
860-759-0704

Performance and Payment Bond

KNOW ALL MEN BY THESE PRESENTS, that we

(hereinafter called the "Principal"), and the _____ a
Corporation created and existing under the laws of the State of _____ and having its
principal office at _____
(hereinafter called the "Surety"), are held and firmly bound unto the Town of Somers (hereinafter
called the "Obligee") in the penal sum of \$ _____ lawful money of the
United States of America, for the payment of which, well and truly to be made, the said Principal
binds itself, (himself, herself, themselves) and its (his, her, their) successors and assigns, and the
said Surety binds itself and its successors and assigns, all jointly and severally, firmly by these
presents. Said penal sum shall apply separately and independently, in its total amount, to the
payment provision and the performance provision of this Bond.

Signed, sealed and dated this _____ day of _____, 2021.

WHEREAS, said Principal has entered into a certain written contract with said Obligee to provide
and install an Audio-Visual Communications Upgrade at the Town House 335 Route 202, Somers,
New York 10589 as further detailed herein. Excludes setting generator on pad, concrete pad and
propane tanks which contract is incorporated herein and hereby made a part of this Bond as if herein
set forth in full.

NOW THEREFORE, the conditions of the above Obligations are such that, if the said
Principal, and its (his, her, their) successors or assigns, or any or either of them shall,

(1) well and truly and in good, sufficient and workmanlike manner, perform or cause to be
performed such Contract, and any amendment or extension of or addition thereto, and each and every
of the covenants, promises, agreements and provisions therein stipulated and contained to be
performed by said Principal, and complete the same within the period therein mentioned, and in each
and every respect, comply with the conditions therein mentioned to be complied with by said
Principal, and fully indemnify and save harmless the Obligee from all costs and damages which it
may suffer by reason of failure so to do and fully reimburse and repay the Obligee all outlay and
expense which it may incur in making good any such default; and

(2) also pay or cause to be paid the wages and compensation for labor performed and services
rendered of all persons engaged in the prosecution of the work provided for therein, whether such
persons by agents, servants or employees of the Principal, and of its (his, her, their) successors or
assigns, or any Subcontractor or of any assignee thereof, including all persons so engaged who
perform the work of laborers or of mechanics regardless of any contractual relationship between the
Principal, or its (his, her, their) successors or assigns, or any Subcontractor or any designee thereof,
and such laborers or mechanics, but not including office employees not regularly stationed at the site
of the work, and further, shall pay or cause to be paid all lawful claims of Subcontractors and of
material men and other third persons out of or in connection with said Contract and the work, labor,
services, supplies and material furnished in and about the performance and completion thereof, then
these obligations shall be null and void, otherwise they shall remain in full force and effect.

PROVIDED, however, that this bond is subject to the following additional conditions and limitations:

- (a) All persons who have performed labor or rendered services, as aforesaid, all Subcontractors and all persons, firms, corporations, including material men and third persons, as aforesaid, furnishing work, labor, services, supplies and material under or in connection with said Contract or in or about the performance and completion thereof, shall have a direct right of action (subject to the prior right of the Obligee under any claim which it may assert against the Principal or its (his, hers, their) successors and assigns, and/or the Surety and its successors and assigns) against the Principal and its (his, hers, their) successors and assigns on this bond, which right of action shall be asserted in proceedings instituted in the State in which such work, labor, services, supplies or material was performed, rendered or furnished or where work, labor, services, supplies or material has been performed, rendered or furnished, as aforesaid, in more than one State, than in any such State. Insofar as permitted by the laws of such State, said right of action shall be asserted in a proceeding instituted in the name of Obligee to the use and benefit of the person, firm or corporation instituting such action and of all other persons, firms and corporations having claims hereunder, and any other person, firm or corporation having a claim hereunder shall have the right to be made a party to such proceedings (but not later than twelve months after the performance of said Contract and final settlement thereof) and to have such claim adjudicated in such action and judgment rendered thereon. Prior to the institution of such a proceeding by a person, firm or corporation in the name of the Obligee, as aforesaid, such person, firm or corporation shall furnish the Obligee with a Bond of Indemnity for costs, which Bond shall be in an amount satisfactory to the Obligee.
- (b) The Surety or its successors or assigns shall not be liable hereunder for any damages or compensation recoverable under any worker's compensation or employer's liability statute.
- (c) In no event shall the Surety or its successors or assigns be liable under either the foregoing clause (1) or the foregoing clause (2) for a greater sum than the penalty of this Bond; provided, however, that said penalty is separately applicable, in its total amount to each of the foregoing clauses (1) and (2), or subject to any suit, action or proceeding hereon that is instituted by any person, firm or corporation under the provisions of the above section (a) later than twelve months after the complete performance of said Contract and final settlement thereof.

The Principal, for itself (himself, herself, themselves) and its (his, hers, their) successors and assigns, and the Surety, for itself and its successors and assigns, do hereby expressly waive any objections that might be interposed as to the right of the Obligee to require a Bond containing the foregoing provisions, and they do hereby further expressly waive any defense which they or either of them might interpose to an action brought hereon by any person, firm or corporation, including Subcontractors, material men, and third persons, for work, labor, services, supplies or material performed, rendered or furnished as aforesaid, upon the ground that there is no law authorizing the said Obligee to require the foregoing provision to be placed in this Bond.

And Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligations of said Surety and of its successors and assigns and this Bond shall in no way be impaired or affected by an extension of time, modification, omission, addition or change in or to the said Contract or the work to be performed thereunder, or by any payment there under, before the time required therein, or by any waiver of any provision thereof, or by an assignment, subletting or other transfer thereof, or of any part thereof, or of any work to be performed, or of any

moneys due or to become due there under; and the said Surety, for itself and its successors and assigns, does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby stipulates and agrees that any and all things done and omitted to be done by and in relation to (executors, administrators), successors, assigns, Subcontractors, and other transferees, shall have the same effect as to said Surety and its successors and assigns, as though done or omitted to be done by and in relation to said Principal.

WITNESSETH our hands and seals this _____ day of _____, 2021

ATTEST:

PRINCIPAL:

By: _____
(Signature)

(SEAL)

SURETY:

ATTEST:

By: _____
(Signature)

(SEAL)

If the Contractor (Principal) is a partnership, the Bond should be signed by each of the individuals who are partners.

If the Contractor (Principal) is a Corporation, the Bond should be signed in its correct corporate name by a duly authorized officer, agent, or attorney-in-fact.

There should be executed an appropriate number of counterparts of the Bond corresponding to the number of counterparts of the Contract.

Each executed Bond should be accompanied by:

- (a) appropriate acknowledgments of the respective parties;
- (b) appropriate duly certified copy of Power of Attorney or other Certificate of Authority where Bond is executed by agent, officer or other representative of Principal or Surety;
- (c) a duly certified extract from By-laws or resolutions of Surety under which Power of Attorney or other Certificate of Authority of its agent, officer or representative was issued, and
- (d) duly certified copy of latest published financial statement of assets and liabilities of Surety.

Sent to:
TB, TA, TC
8/3/2021
KD

COMMITMENT & INTEGRITY
DRIVE RESULTS

Woodard & Curran Engineering and
Geological Services P.A. P.C.
800 Westchester Avenue | Suite N507
Rye Brook, New York 10573
www.woodardcurran.com

T 800.807.4080
T 914.448.2266
F 914.448.0147



MEMORANDUM

TO: Rick Morrissey, Town Supervisor
CC: Kim DeLucia, Town of Somers
FROM: Steve Robbins, P.E.
DATE: August 2, 2021
RE: NYS DEC Urban Forestry Grant Request for Proposals Review and Recommendations

Background

The New York State Department of Environmental Conservation awarded the Town of Somers a grant for \$35,000, as part of their Urban and Community Forestry program, to develop a tree inventory of 39 street miles and 120 acres of Town facilities and parks and a custom community forest management plan. The Town is one of 26 grant recipients out of 154 applications from across the State.

The Tree Inventory and customized Community Forest Management Plan will:

- Create a database on the location, species, and condition of trees within the community.
- Make better informed decisions about tree health and maintenance, removal, and planting.
- Create an implementable strategy to develop and maintain a biologically diverse and healthy urban canopy that provides beauty, increases property values, mitigates pollution, and provides shelter against weather extremes.
- Increase community care for and investment in the community forest.
- Increase collaboration between the Town of Somers, the Open Space Committee, and interested residents for this and future projects.

The Town of Somers requested \$41,750 from the Urban and Community Forestry program, and DEC awarded Somers \$35,000. Woodard & Curran, acting in the role of planning support, submitted a revised work plan and budget to the DEC to facilitate the contracting process.

Request for Proposals

To comply with Town procurement rules, Woodard & Curran developed a Request for Proposals to solicit professional ISA-certified arborist services to conduct the tree inventory and develop the community forest management plan.

The invitation-only RFP was released on July 15, 2021 with proposals due on July 29, 2021. The RFP was sent to SavATree and Almstead Tree, Shrub, & Lawn Care, both of which provided initial estimates for the grant application process, and Davey Resource Group, who previously conducted a tree inventory in Somers on behalf of NYSEG.

SavATree and Davey Resource Group submitted responses to the RFP.

Review & Recommendation

Woodard & Curran evaluated the two proposals against the criteria in the RFP, namely:

- Successful provision of Certified Arborist services for similar projects



- Ability to provide comprehensive scope of services
- Availability of services as per program schedule
- Ability to maintain budgeted cost for Certified Arborist services
- New York State firm/consultant and crew preferred

Both SavATree and Davey Resource Group submitted proposals that allow the base scope of services to be completed within the grant budget of \$35,000. Both were responsive and provided the minimum criteria for the evaluation. One key difference was that Davey Resource Group's proposal did not include use of the requested free software i-Tree Eco, instead it relies on their proprietary software TreeKeeper at a cost of \$6,250 for a three-year license beyond a promotional one-year period. Additionally, the RFP gives additional weight to contractors based in New York State. Davey Resource Group is headquartered in Kent, Ohio and SavATree's corporate offices are in Bedford Hills, New York.

Based on the evaluation criteria, Woodard & Curran finds that SavATree's proposal provides a better value to the Town for the professional services being provided and therefore recommends the Town of Somers enter into a contract with SavATree not to exceed \$35,000 to conduct a comprehensive tree inventory of up to 3,500 trees and 600 vacant tree spaces; develop a community forest management plan that includes storm preparedness and response planning, invasive species management, and wood utilization; and three meetings, including a training on using and updating the tree database for Town staff.

INF Associates

1116 Main Street
Fishkill, NY 12524 US
info@infassociates.com
www.infassociates.com

Sent to:
TB, TA, TC
8/4/2021
KD

**Estimate****TO:**

Town of Somers
335 Route 202
Somers, New York 10589

ESTIMATE:

1155

DATE:

08/03/2021

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
EV Labor	RE: Revision to Town of Somers Bid Proposal Submitted by INF Associates dated November 30, 2020	1	1,300.00	1,300.00
• Section 4.0 Add \$1,300.00 to \$14,854.00 (Make Ready Price)				
• NEW Make Ready Infrastructure \$16,154.00				
TOTAL				\$1,300.00

REVISIONS:**REVISIONS:**

Sent to:
TR, TA, TC
7/28/2021
KD

Highway Department

Town of Somers

WESTCHESTER COUNTY, N.Y.

250 RT. 100
P.O. BOX 281

TELEPHONE
(914) 232-4848
FAX
(914) 232-0150

NICHOLAS DEVITO
Superintendent of Highways

THOMAS DEAGAN
Deputy Supt. of Highways



MEMO TO: SUPERVISOR
TOWN BOARD

FROM: NICHOLAS DEVITO
SUPT. of HIGHWAYS

RE: MATERIAL BIDS FOR 2022

DATE: JULY 27, 2021

The Superintendent of Highways requests permission to go to bid for 2022 materials for the Highway Department.

Nicholas DeVito
Supt. of Highways

cc: Town Clerk

Sent to:
TB, TA, TC
8/2/2021
KD

OFFICE OF THE SUPERVISOR

Telephone
(914) 277-3637
Fax
(914) 276-0082

Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



July 26, 2021

Memo

TO: Town Board
FROM: Kim DeLucia, Executive Assistant to the Supervisor **KD**
RE: Ann Garrity

We've received the canvas list for the Office Assistant title. Ms. Ann Garrity is currently a provisional Office Assistant. Ann is on the Town of Somers residence list and is reachable.

I request the Town Board to appoint Ms. Garrity to the probationary position of Part-time Office Assistant not to exceed 17 hours a week at an hourly rate of \$24.06 effective July 8, 2021.

Thank you.

Cc: Patty Kalba ~ Town Clerk
Roland Baroni – Town Attorney
Robert Kehoe – Finance Director

Kd
Z:\Supervisor\kdelucia\Memos\Town Board_A Garrity.doc

Sent to:
TB, TA, TC
7/28/2021
KD

Telephone
(914) 277-3539
FAX
(914) 277-3790

Town of Somers
WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

THOMAS J. TOOMA JR.
Building Inspector



DATE: July 19, 2021

MEMO TO: Town Board

FROM: Thomas J. Tooma Jr.
Building Inspector

RE: Richard Servello

I respectfully request to promote Richard Servello into the competitive part-time Chief Fire Inspector title in the Building Department effective as of July 27, 2021 for a maximum of 17 hours a week at the rate of \$39.79 per hour. Westchester County HR has recommended we change this title from non-competitive to competitive since Rich is reachable on the current fire inspector eligibility list.

cc: Town Clerk

Somers Department of Parks & Recreation

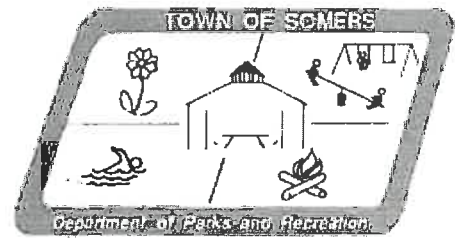
PO Box 46 Somers, New York 10589

OFF: (914)-232-8441

FAX: (914)-232-8548

Steven Ralston
Superintendent

*Sent to:
TB/ATC
8/2/2021
KD*



July 29, 2021

To: Town Board

From: Steven Ralston 
Superintendent of Parks and Recreation

Re: Staff Request

Request permission to promote:

Darwin Yanza

From: Maintenance Laborer

To: Maintenance Mechanic Equipment - Grounds

Grade 4A Step 1 at an annual salary of \$49,809 in accordance with the CSEA contract.

Effective August 6, 2021

C: Park Board
Director of Finance
Town Clerk

Send to: TB,TA,TC
7/20/2021
KD

Kim DeLucia

From: Bobby Brower
Sent: Tuesday, July 6, 2021 8:18 PM
To: Rick Morrissey
Cc: Kim DeLucia
Subject: Somers Affordable Housing Board - Robert Brower, Jr.

Dear Supervisor Morrissey,

I am writing in regards to the Somers Affordable Housing Board reappointment letter received on June 30th, 2021. Please see this email as my formal acknowledgement that I would like to extend my term and remain on the Affordable Housing Board.

Thanks for your confidence as a committed and contributing member to Affordable Housing in Somers.

Best,

Bobby

This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

environment printing this

Sent to:
TB, TA, TC
7/28/2021
KO

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
Fax
(914) 277-4093

Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
835 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Date: July 27, 2021

To: Town Board
Planning Board
Open Space Committee
Energy Environment Committee
Town Clerk

Woodard & Curran
File

From: Engineering Department

Re: The following is submitted for your review and comment:

Project Name: Orfei Wetland Application – 12 Manor Lane
Plan: Site Plan
Dated: July 17, 2021
Prepared by: Christopher S. Utschig, P.E.

Referral is made under the provisions of the following regulations:

1. Informal Discussion: _____
2. Final Subdivision Approval: _____
3. Preliminary Subdivision: _____
4. Site Plan: _____
5. Wetland Activity Permit: _____
Administrative 27.18-1-17
Planning Board X
6. Steep Slope Permit: _____
Administrative _____
Planning Board _____
7. Other Survey dated March 10, 2021
Engineer's Report dated 7/18/2021

07/18

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"**

APPLICATION FEE: \$100 for disturbances of five thousand (5,000) square feet and/or for the placement or removal of 50 cubic yards of soil, plus \$500 for each additional acre of disturbance.

ENGINEERING INSPECTION FEE: \$100

OWNER: STEPHEN CRISI Tel.#: _____
Mailing Address: KATONAH NY 10536
Email Address: SWOOP

APPLICANT: DANIEL SHERMAN Tel.#: _____
Mailing Address: VALHALLA NY 10595
Email Address: _____

State authority: If other than owner, authorization must be submitted in writing

PREMISES: Sheet: 27-10 Block: 1 Lot: 17

DESCRIPTION OF WORK AND PURPOSE: PROPOSED IN-GROUND SWIMMING POOL, PATIO, POOL HOUSE + OUTDOOR KITCHEN

SIZE OF ACTIVITY AREA: 0 feet by _____ feet
(include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: _____
(leave blank if not known)

IN CONJUNCTION WITH:

Wetland Permit: ☒ **Steep Slopes Permit:** _____ **Tree Preservation Permit:** _____
Site Plan: _____ **Subdivision:** _____

PROPOSED STARTING DATE: FALL 2021 **PROPOSED COMPLETION DATE:** SPRING 2022
PLANS PREPARED BY: CHRIS **DATED:** 6/17/21

UTSCHIG

****Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS:

**LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS
WITHIN 100 FEET OF SUBJECT PROPERTY**

NAME	ADDRESS	BLOCK/LOT
------	---------	-----------

APPLICANT'S SIGNATURE
OWNER'S SIGNATURE:

DATE: 26 July 21
DATE: 2

***APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, A VICINITY MAP, A DEVELOPMENT PLAN, EROSION AND SEDIMENT CONTROL PLAN, AND THE PROPOSED PHASING OF DEVELOPMENT OF THE SITE.**

.....Office Use Only.....

Administrative Permit: _____

Planning Board Permit: _____

7/02

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 167 "WETLAND AND WATER COURSE PROTECTION"**

APPLICATION FEE:

Alteration of Wetlands: \$200 minimum fee plus \$100 per 5,000 S.F. of regulated area or proposed portions thereof to be disturbed.

Annual Maintenance Permit Annual Fee: Administrative Permit: \$25.00, Planning Board Permit: \$75.00

OWNER: STEPHEN ORFEL Tel #: _____
Mailing Address: _____, KATONAH NY 10536
APPLICANT: DANIEL SHERMAN Tel #: _____
Mailing Address: _____, VAHAWA NY 10995
State authority: _____ If other than owner, authorization must be submitted in writing.

PREMISES: Sheet: 2118 Block: 1 Lot: 7
Situated on the WEST side of MAURICE LANE (Street), 800 feet from the intersection of _____ (Street)

DESCRIPTION OF WORK AND PURPOSE: PROPOSED IN-GROUND SWIMMING POOL, PATIO, POOL HOUSE + OUTDOOR KITCHEN

SIZE OF ACTIVITY AREA: _____ SF
Is work proposed in Wetland: NO or Wetland Control Area:
Is there an existing house located on the site: ES
Is pond, lake or detention basin proposed to be cleaned:

Functions provided by Wetland:

Wetland Expert delineating Wetland: MICHAEL LUKWICKI
ESTIMATED QUANTITY OF EXCAVATION: _____ C.Y. CUT _____ FILL

ESTIMATED TOTAL VALUE OF WORK:

PROPOSED STARTING DATE: FALL PROPOSED COMPLETION DATE: SPRING 2024
PLANS PREPARED BY: CHAD SCHMIDT DATED: 7/17/21

****Plans must be submitted with application.****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS:

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS
WITHIN 100 FEET OF SUBJECT PROPERTY

NAME	ADDRESS	BLOCK	LOTS
------	---------	-------	------

APPLICANT'S SIGNATURE:

DATE: 6 / 21

OWNER'S SIGNATURE:

DATE: 0

***APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION MAP OF WETLANDS AS THEY EXIST IN THE FIELD OR AS SHOWN ON SOMERS ENVIRONMENTAL MAPS.**

.....Office Use Only.....

Administrative Permit:

Planning Board Permit:

7/2014

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the 27th day of June in the year 2019, before me, the undersigned, personally appeared
STEPHEN ORFEI,

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) who names(s) is
(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
capacity(ies), and that by his/her/their signatures(s) on the instrument, the individual(s), or the person upon behalf of
which the individual(s) acted, executed the instrument.


NOTARY PUBLIC STATE OF NEW YORK

THOMAS T. ANTONECCHIA
Notary Public, State of New York
No. 02AN5089425
Qualified in Westchester County
Commission Expires August 31, 2022

Bargain and Sale Deed

STEPHEN ORFEI

TO

STEPHEN W. ORFEI, as Trustee

SECTION 27.18

BLOCK 1

LOT 17

TOWN OF SOMERS

COUNTY OF WESTCHESTER

RECORD AND RETURN BY MAIL TO:
THOMAS T. ANTONECCHIA, ESQ.
155 Katonah Avenue
Katonah, NY 10536

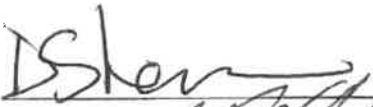
APPLICANT ACKNOWLEDGEMENT

By making this application, the undersigned Applicant agrees to permit Town officials and their representatives to conduct on-site inspections in connection with the review of this application.

The applicant also agrees to pay all expenses for the cost of professional review services required for this application, as referred to in §133-1 of the Code of the Town of Somers. As such, an Escrow Account, according to §133-2 of the Code of the Town of Somers, may be required.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

Signature of Applicant:



Date:

12 July 21

Signature of Property Owner:
(if different from applicant)



Date:

10 July 21

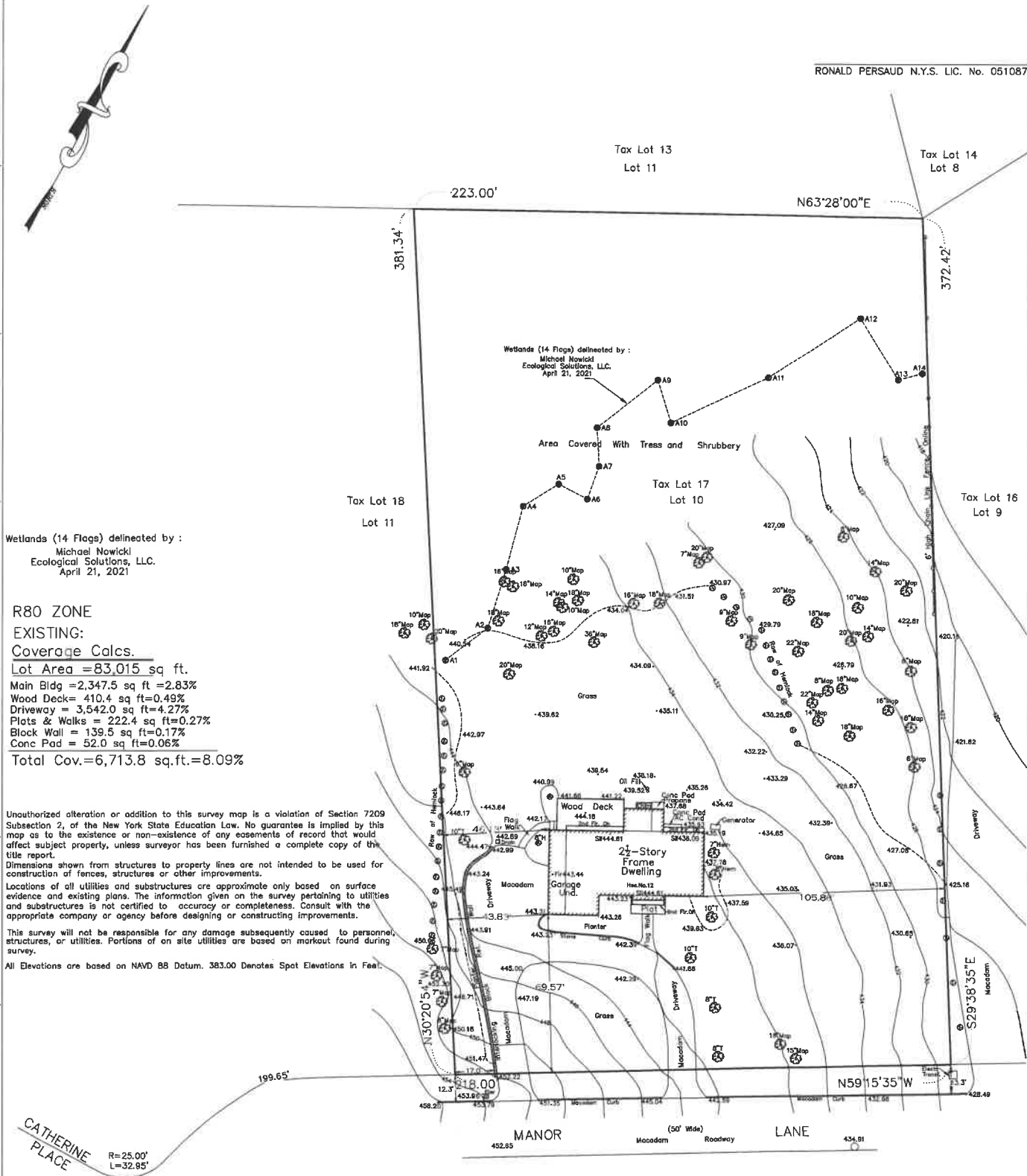
Topography Survey of Portion of that certain Plot or Parcel Situate, lying and being in the Town of Somers, County of Westchester and State of New York, shown and designated as Lot No. 10 in Block 3508 on a certain map entitled, "Subdivision Map prepared for Estate of Myrtle K. Hopkins", filed in the Office of the County Clerk of Westchester, Division of Land Records on October 26, 1987 as Map No. 22994.

Property and Topography Survey
Depicting Portion of
12 Manor Lane
Katonah, N.Y.10536
Prepared For Stephen Orfei

RONALD PERSAUD, L.S.
LAND SURVEYOR
15 South Tenth Ave
MOUNT VERNON, N.Y. 10550
Tele : (914) 523-5808
Email: ronaldpersaud1510@gmail.com

Block No.1: Tax Lot No.17 : Area=83,015 sq.ft. 1.9 acres

RONALD PERSAUD N.Y.S. LIC. No. 051087



R80 ZONE
EXISTING:
Coverage Calcs.
Lot Area =83,015 sq ft.
Main Bldg =2,347.5 sq ft=2.83%
Wood Deck= 410.4 sq ft=0.49%
Driveway = 3,542.0 sq ft=4.27%
Plots & Walks = 222.4 sq ft=0.27%
Block Wall = 139.5 sq ft=0.17%
Circ Pad = 52.0 sq ft=0.06%
Total Cov.=6,713.8 sq.ft.=8.09%

Unauthorized alteration or addition to this survey map is a violation of Section 7209 Subsection 2, of the New York State Education Law. No guarantee is implied by this map as to the existence or non-existence of any easements of record that would affect subject property, unless surveyor has been furnished a complete copy of the title report.
Dimensions shown from structures to property lines are not intended to be used for construction of fences, structures or other improvements.
Locations of all utilities and substructures are approximate only based on surface evidence and existing plans. The information given on the survey pertaining to utilities and substructures is not certified to accuracy or completeness. Consult with the appropriate company or agency before designing or constructing improvements.
This survey will not be responsible for any damage subsequently caused to personnel, structures, or utilities. Portions of on site utilities are based on markout found during survey.
All Elevations are based on NAVD 88 Datum. 383.00 Denotes Spot Elevations in Feet.

Unauthorized alteration or addition to this survey map is a violation of Section 7209 Subsection 2, of the New York State Education Law. No guarantee is implied by this map as to the existence or non-existence of any easements of record that would affect subject property, unless surveyor has been furnished a complete copy of the title report.
Dimensions shown from structures to property lines are not intended to be used for construction of fences, structures or other improvements.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information							
Name of Action or Project: ORFEI RESIDENCE							
Project Location (describe, and attach a location map): 12 MAJOR LANE, KATONAH, NY 10534							
Brief Description of Proposed Action: PROPOSED IN-GROUND SWIMMING POOL, PATIO, POOL HOUSE, + OUTDOOR KITCHEN							
Name of Applicant or Sponsor: DANIEL SHERMAN		Telephone: 914-824-0000					
Address: 4 BROADWAY SUITE #9		E-Mail: DAN.DANSHERMAN LANDSCAPE @ GMAIL.COM					
City/PO: VALHALLA		State: NY	Zip Code: 10595				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">NO</td> <td style="width: 50%;">YES</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: BUILDING + ENGINEERING			<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">NO</td> <td style="width: 50%;">YES</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3. a. Total acreage of the site of the proposed action?		1.9 acres					
b. Total acreage to be physically disturbed?		.11 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0 acres					
4. Check all land uses that occur on, are adjoining or near the proposed action:							
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland							

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <u>CULTEC CHAMBERS</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>DAVID SHERMAN</u> Date: <u>7/26/21</u> Signature: <u>[Signature]</u> Title: <u>LANDSCAPE ARCHITECT</u>		

Engineer's Report
for
The Orfei Residence

12 Manor Lane
Katonah, New York

Dated 7/18/21

Revised _____

Prepared by:
Christopher S. Utschig P.E.
65 Ralph Ave White Plains, NY
914 391-9550

NYS Professional Engineer Lic # 090138

Introduction

This report has been prepared in support of the proposed improvements to the property at 12 Manor Lane. The proposed improvements will include a pool, and new patio. The report and associated plans were prepared in accordance with the Westchester County, NY, Stormwater Management Best Management Practices for Stormwater Runoff Control in compliance with the requirements of the Town of Somers pursuant to a Environmental Permit. The existing conditions identified on the site plan were taken from a survey prepared by Donnelly Surveying 5/6/14. The geometry for the proposed improvements are from plans prepared by Dan Sherman LA.

A. Existing Conditions

The existing property is a 1.9 Ac (83,014 SF) residentially zoned property within the R80 zone. The property is occupied by a 2 1/2 story single family home; additional improvements include a driveway, and walks. The balance of the property is landscaped lawn area and wooded areas. The existing condition includes 6,379 sf of impervious area. The subject properties topography can be described as gently sloping. All Stormwater leaves the property in an overland fashion, no evidence of existing Stormwater systems or alternate conveyance means are apparent. Based on Westchester County Soil Mapping the onsite soils in the area of infiltration and proposed development are a Woodbridge Loam, having a type "C" hydrologic group.

C. Proposed Condition

The proposed condition includes a rear yard in ground pool, patio, and walkways. The grading as proposed leaves the existing yard grading essentially untouched and thereby leaving the existing drainage patterns unchanged. The proposed condition will result in an impervious area of 9,150 sf. the balance of the property will remain unchanged, this represents an increase in impervious area of 2,771 sf.

Drainage from the patio area is captured by a perimeter micro drain that is piped to a pair of cultic 330 hd to provide infiltration capacity. The inlet immediately upstream of the cultic units provides for debris capture and maintenance as well as providing an overflow in the event the cultic system reaches its capacity.

D. Construction Phasing Plan and Sediment and Erosion Control Management

Maintenance of Temporary and Permanent Structures and Practices

Temporary and permanent erosion controls measures will be maintained and inspected in accordance with the **Grading and Drainage Plan**. All proposed soil erosion and sediment control practices are designed in accordance with the following publications:

- New York State Standards and Specifications for Erosion and Sediment Control, August 2005, latest edition.
- New York State Guidelines for Urban Erosion and Sediment Control, latest edition,
- New York State General Permit for Stormwater Discharges,
- "Reducing the Impacts of Stormwater Runoff from New Development", as published by the New York State Department of Environmental Conservation (NYSDEC), second edition, April 1993.

The proposed soil erosion and sediment control devices include: protective earthmoving procedures and grading practices, soil stabilization, inlet protection, stabilized construction entrance and silt fencing. The approach of the plan is to control off-site sedimentation, and re-establish vegetation as soon as practicable.

Construction shall be implemented in the following order:

1. Erosion and sediment control (ESC) measures and Pollution Prevention (PP) implementation,
 - a) Install silt fences along easterly project limits,
 - b) Maintain existing macadam driveway to utilize as a site construction entrance to the project area, material storage area and dumpster location.
 - i) Contractor shall install stone stabilized entrance at end of the existing paved driveway in advance of construction vehicles requiring access from graded /exposed soils to City Streets.
 - c) Install Tree Protection
 - d) Install temporary sanitary facilities (portable toilets) in a location that is at least 20 from any drainage facility or flow path. Recommend staking the facility to prevent accidental tipping by construction activity or wind.
 - e) Install waste container – maintain rigorous site cleaning schedule to prevent debris from blowing off site. Construction waste shall be stored in a dumpster and carried off-site on a regular basis
 - f) Allocate concrete washout areas
2. Clearing and grubbing.
 - a) Strip top soil and stockpile. Initiate cover practices and sediment controls at the base of the stockpile. Stockpile can be temporarily stabilized with tarp or mulch and/or temporary seeding.
 - b) Disturbed areas where construction will cease for more than 14 days will be stabilized with erosion controls, such hydro-seeding, hydro-mulch, or hay
3. Excavate for pool.
 - a) Install dewatering practice if necessary.
4. Construct hardscape
5. Install subsurface storage and infiltration system and site drainage to capture runoff.
6. Final stabilization of disturbed areas
 - a) Install minimum 4" topsoil and final stabilize with lawn or mulch in landscape areas.
 - b) Remove all ESC and PP measures upon approval of design engineer and/or ESC inspector.

Awarded contractor shall be responsible for the proper implementation of the ESC and PP practices. The following maintenance program is proposed in order to maintain the proper function of all drainage and erosion and sediment control facilities:

- Inspect sediment control devices and construction access point routinely and if necessary remove accumulated sedimentation and debris; at no point should the filter bed be allowed to continue operations beyond 50% of its capacity being compromised by debris.
- All disturbed area will be stabilized and the sediment build-up in the filter removed. After the construction is completed, any areas disturbed shall be stabilized immediately after the required work is completed.
- Restore and re-seed any eroded areas as soon as possible
- The Stormwater Management Facilities Maintenance Program will be managed by the home owner and shall include removal of sediment from the on-site catch basins and underground storage facilities.

The contractor shall provide a Trained Individual to be present on site at all times during soil disturbing activities

Any disturbed areas shall be re-vegetated as soon as possible. Topsoil shall be temporarily stockpiled for future use in grading and landscaping. Stockpile locations have been provided on the Erosion and Sediment

Control Plan and shall be contained within a silt fence/hay bale barrier.

The existing driveway shall be maintained throughout construction to be utilized for the site construction entrance. A temporary stabilized construction entrance comprised of a stone anti-track pad shall be installed as necessary to minimize dirt tracking. The purpose of a stabilized entrance is to remove as much soil from the construction vehicle tires prior to exiting the site and traveling on the existing roadways.

For dewatering activities during excavation of the footings, a dewatering pump shall be located in a perforated tub surrounded by filter fabric and stone (or approved alternative). Clean discharge should be directed to onsite drainage appurtenances to minimize erosion of soils. Discharge with suspended sediment shall be connected to a sediment bag on undisturbed ground in a location where the discharge will not cause erosion or flow over exposed soils.

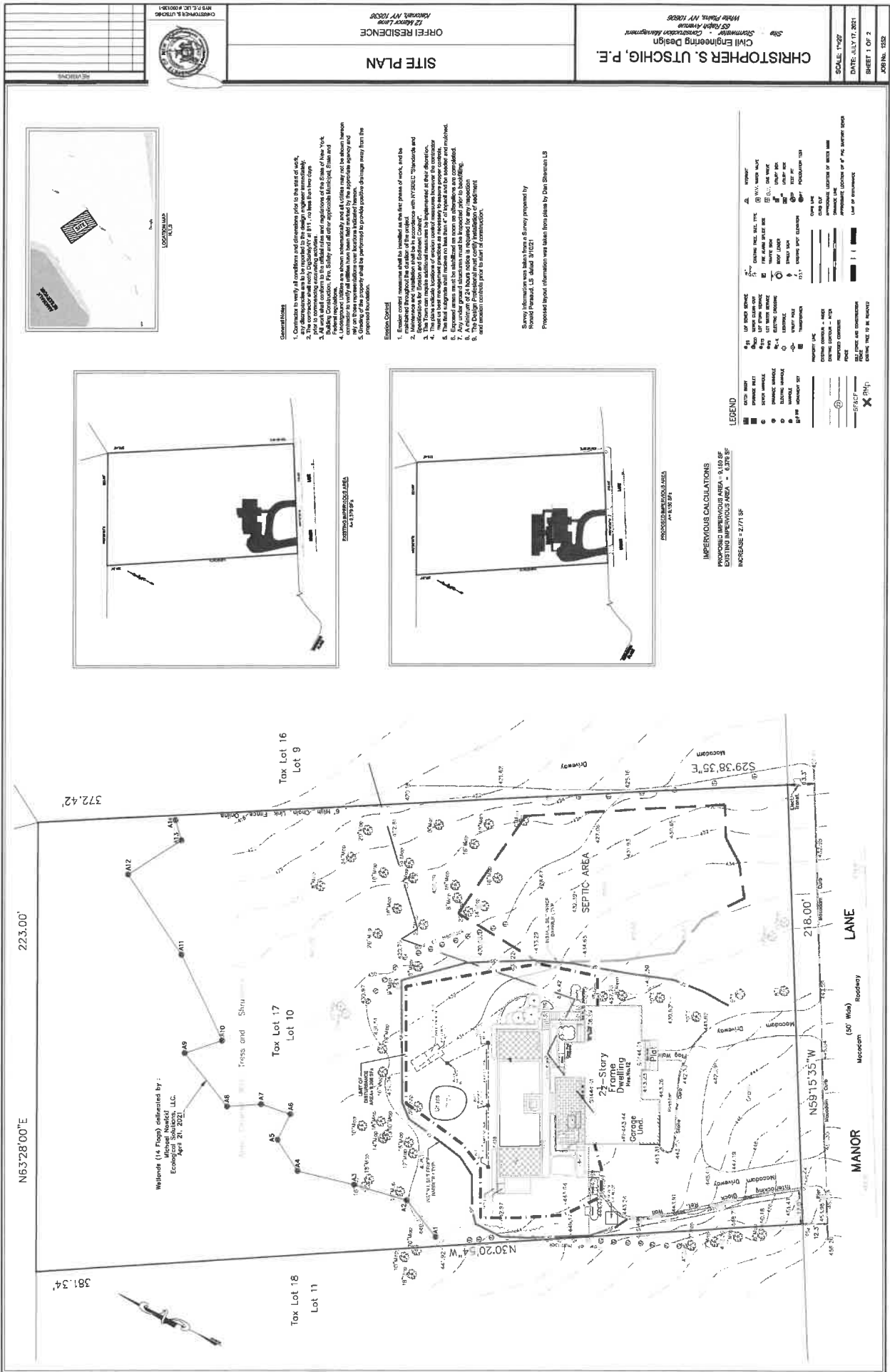
If the contractor encounters ground water during the excavation of the filtering system, he shall notify the design engineer immediately. The contractor shall store all excavated material at the designated location show on the Grading and Erosion Control Plan with the appropriate erosion control measures corresponding to the stockpile detail.

Contractor shall be responsible for maintaining the cleanliness of the streets (driveways/parking and adjacent areas) and storm drain inlet protection (as applicable) Best Management Practices (BMPs) throughout the construction project.

Permanent seeding shall be installed immediately after the final design grades are achieved but no later than fourteen (14) days after construction activities have ceased. After stabilization, accumulated sediment shall be removed from site for disposal along with construction debris, trash and temporary BMPs

E. Conclusion:

The implementation of this stormwater management plan will mitigate the post development stormwater flows and not adversely affect the adjacent properties or the existing drainage system..



SITE PLAN

12 MONROE LANE
MADISON, NY 10058

OFFICE RESIDENCE

CHRISTOPHER S. UTCHIG, P.E.

Civil Engineering Design
12 MONROE LANE
MADISON, NY 10058

SCALE: 1"=20'

DATE: JULY 17, 2021

SHEET 1 OF 2

JOB NO. 1522

General Notes

1. Compare to verify all conditions and dimensions prior to the start of work.
2. Any discrepancies are to be reported to the design engineer immediately.
3. The design is based on the information provided and does not constitute a warranty of any kind.
4. The design is based on the information provided and does not constitute a warranty of any kind.
5. The design is based on the information provided and does not constitute a warranty of any kind.

Easement Details

1. Easement details are to be provided as the first phase of work, and be maintained throughout the duration of the project.
2. Easement details are to be provided as the first phase of work, and be maintained throughout the duration of the project.
3. Easement details are to be provided as the first phase of work, and be maintained throughout the duration of the project.
4. Easement details are to be provided as the first phase of work, and be maintained throughout the duration of the project.
5. Easement details are to be provided as the first phase of work, and be maintained throughout the duration of the project.

Survey information was taken from a survey prepared by
Ronald P. Papp, L.S. dated 3/1/2021.
Proposed layout information was taken from data by Dan Sherron, L.S.

IMPERVIOUS CALCULATIONS
EXISTING IMPERVIOUS AREA = 1,276 SF
INCREASE = 2,771 SF

LEGEND

1. LOT BOUNDARY	2. LOT BOUNDARY	3. LOT BOUNDARY	4. LOT BOUNDARY	5. LOT BOUNDARY	6. LOT BOUNDARY	7. LOT BOUNDARY	8. LOT BOUNDARY	9. LOT BOUNDARY	10. LOT BOUNDARY	11. LOT BOUNDARY	12. LOT BOUNDARY	13. LOT BOUNDARY	14. LOT BOUNDARY	15. LOT BOUNDARY	16. LOT BOUNDARY	17. LOT BOUNDARY	18. LOT BOUNDARY	19. LOT BOUNDARY	20. LOT BOUNDARY	21. LOT BOUNDARY	22. LOT BOUNDARY	23. LOT BOUNDARY	24. LOT BOUNDARY	25. LOT BOUNDARY	26. LOT BOUNDARY	27. LOT BOUNDARY	28. LOT BOUNDARY	29. LOT BOUNDARY	30. LOT BOUNDARY	31. LOT BOUNDARY	32. LOT BOUNDARY	33. LOT BOUNDARY	34. LOT BOUNDARY	35. LOT BOUNDARY	36. LOT BOUNDARY	37. LOT BOUNDARY	38. LOT BOUNDARY	39. LOT BOUNDARY	40. LOT BOUNDARY	41. LOT BOUNDARY	42. LOT BOUNDARY	43. LOT BOUNDARY	44. LOT BOUNDARY	45. LOT BOUNDARY	46. LOT BOUNDARY	47. LOT BOUNDARY	48. LOT BOUNDARY	49. LOT BOUNDARY	50. LOT BOUNDARY	51. LOT BOUNDARY	52. LOT BOUNDARY	53. LOT BOUNDARY	54. LOT BOUNDARY	55. LOT BOUNDARY	56. LOT BOUNDARY	57. LOT BOUNDARY	58. LOT BOUNDARY	59. LOT BOUNDARY	60. LOT BOUNDARY	61. LOT BOUNDARY	62. LOT BOUNDARY	63. LOT BOUNDARY	64. LOT BOUNDARY	65. LOT BOUNDARY	66. LOT BOUNDARY	67. LOT BOUNDARY	68. LOT BOUNDARY	69. LOT BOUNDARY	70. LOT BOUNDARY	71. LOT BOUNDARY	72. LOT BOUNDARY	73. LOT BOUNDARY	74. LOT BOUNDARY	75. LOT BOUNDARY	76. LOT BOUNDARY	77. LOT BOUNDARY	78. LOT BOUNDARY	79. LOT BOUNDARY	80. LOT BOUNDARY	81. LOT BOUNDARY	82. LOT BOUNDARY	83. LOT BOUNDARY	84. LOT BOUNDARY	85. LOT BOUNDARY	86. LOT BOUNDARY	87. LOT BOUNDARY	88. LOT BOUNDARY	89. LOT BOUNDARY	90. LOT BOUNDARY	91. LOT BOUNDARY	92. LOT BOUNDARY	93. LOT BOUNDARY	94. LOT BOUNDARY	95. LOT BOUNDARY	96. LOT BOUNDARY	97. LOT BOUNDARY	98. LOT BOUNDARY	99. LOT BOUNDARY	100. LOT BOUNDARY
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Sent to:
TB, TA, TC
7/30/2021
KD

PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

WESTCHESTER COUNTY, N.Y.

Telephone
(914) 277-5366
Fax
(914) 277-4093

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Date: July 30, 2021

To: Town Board
Planning Board
Open Space Committee
Energy Environment Committee
Town Clerk

Woodard & Curran
File

From: Engineering Department

Re: The following is submitted for your review and comment:

Project Name: Steinberg Wetland & SMESC Application
3 Tall Trees Court
Plan: Pool Site Plan
Dated: June 21, 2021 last revised July 16, 2021
Prepared by: Roy Fredriksen, PE

Referral is made under the provisions of the following regulations:

1. Informal Discussion: _____
2. Final Subdivision Approval: _____
3. Preliminary Subdivision: _____
4. Site Plan: _____
5. Wetland Activity Permit: _____
Administrative _____
Planning Board _____
X
6. Steep Slope Permit: _____
Administrative _____
Planning Board _____
7. Other _____
SMESC Application _____
Wetland Report dated July 30, 2021 _____

Roy Fredriksen, P.E.
Consulting Engineer
Design Planning Construction



Phone (518) 928-0265
rafredriksenpe@gmail.com

PO Box 950
Mahopac, N.Y. 10541

July 30, 2021

WETLAND REPORT

Steven Woelfle
Town of Somers, NY
Engineering Dept.
335 Route 202
Somers, NY 10589

RE: Craig Steinberg
3 Tall Trees Court
Katonah, NY 10536
TM: 47.16-1-23

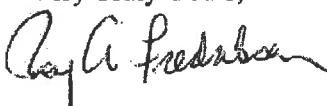
Dear Mr. Woelfle ;

The referenced property has a brook traversing the south side of the site, flowing west to east. The brook is well defined within its channel and has a maximum width of five feet. There is no associated wetland vegetation within the banks of the brook.

The soil on the site is PoB – Paxton Fine Sandy Loam. This is typically an upland soil and is very deep and well drained. It belongs to SCS hydrologic group C and has no tendency for flooding.

The entire house is within the wetland buffer zone, as is the proposed in ground pool and patio. I propose for mitigation a 12 x 24 feet rain garden which is sized for a water quality criteria of a 90% rainfall.



Very Truly Yours,

Roy A. Fredriksen, P.E.

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 167 "WETLAND AND WATER COURSE PROTECTION"

APPLICATION FEE:

Alteration of Wetlands: \$200 minimum fee plus \$100 per 5,000 S.F. of regulated area or proposed portions thereof to be disturbed.

Annual Maintenance Permit Renewal Fee: Administrative Permit: \$25.00, Planning Board Permit: \$75.00

Erosion and Sediment Control Application fee: \$100 for disturbances of at least one acre or for the placement or removal of 20 cubic yards of soil, plus \$500 for each additional acre of disturbance.

OWNER: GRAI ENISER Tel.#:
Mailing Address: 3 TALL TREES COURT KATONAH NY 10536
APPLICANT: ROY A. FREDRIKSEN, PE Tel.#:
Mailing Address: MAHOPAC NY 10541
State authority: _____ If other than owner, authorization must be submitted in writing.

PREMISES: Sheet 47.1 Block: 1 Lot: 23
Situated on the SOUTH side of Trees (Street), 600 feet from the
intersection of MOSEMAN VE. (Street)

DESCRIPTION OF WORK AND PURPOSE: CONSTRUCTION OF A 16'x40' F
1 GROUP A 10

The information listed below shall relate to the impact within wetland and/or wetland buffer:

SIZE OF ACTIVITY AREA: X80
Is work proposed in Wetland: _____ or Wetland Control Area:

Is there an existing house located on the site:
Is pond, lake or detention basin proposed to be cleaned: 0

Functions provided by Wetland:

Wetland Expert delineating Wetland:

ESTIMATED QUANTITY OF EARTH WORK:

Excavated material placed as fill: 100 C.Y.

Imported Fill Type: C.Y.

PROPOSED STARTING DATE: _____ PROPOSED COMPLETION DATE: 10/1/21

PLANS PREPARED BY: AS PREPARED: 6/21/21

Plans must be with application.

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS:

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS
WITHIN 100 FEET OF SUBJECT PROPERTY

NAME	ADD	BLOCK	LOTS

APPLICANT'S SIGNATURE:
OWNER'S SIGNATURE:

DATE: 6 21
DATE:

*APPLICATION MUST BE ACCOMPANIED BY A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION MAP OF WETLANDS AS THEY EXIST IN THE FIELD OR AS SHOWN ON SOMERS ENVIRONMENTAL MAPS.

Office Use Only

Administrative Permit:

Planning Board Permit:

Z:\PE\General files\Permit Application forms\Somers_P&E_Wetlands_2002-07.DOCZ:\PE\General files\Permit Application forms\Somers_P&E_Wetlands_2002-07.DOC

JUN 25 2021

F 100 Application Fee
B 100 Inspection Fee

07/18

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"**

APPLICATION FEE: \$100 for disturbances of five thousand (5,000) square feet and/or for the placement or removal of 50 cubic yards of soil, plus \$500 for each additional acre of disturbance.

ENGINEERING INSPECTION FEE: \$100

OWNER: CRA SEIBER Tel.#: _____
Mailing Address: 3 TALL TREES COURT, KATONAH, NY 10536
Email Address: _____

APPLICANT: O FREDRIKSEN E Tel.#: _____
Mailing Address: _____
Email Address: _____

State authority: If other than owner, authorization must be submitted in writing I Authorize
ROY A FREDRIKSEN, PE TO FILE THIS APPLICATION ✓

PREMISES: Sheet: .16 Block: 1 Lot: 2

DESCRIPTION OF WORK AND PURPOSE: s UTIO 11' x 40' ft
round d & PA 10

SIZE OF ACTIVITY AREA: 0 feet by 20 feet
(include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: 108 C
(leave blank if not known)

IN CONJUNCTION WITH:

Wetland Permit: ✓ **Steep Slopes Permit:** _____ **Tree Preservation Permit:** _____
Site Plan: _____ **Subdivision:** _____

PROPOSED STARTING DATE: 8/1/21 **PROPOSED COMPLETION DATE:** 10/1/21
PLANS PREPARED BY: FREDRIKSEN **DATED:** 6/21/21

****Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS:

**LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS
WITHIN 100 FEET OF SUBJECT PROPERTY**

NAME	ADDRESS	BL	K/LOT
------	---------	----	-------

APPLICANT'S SIGNATURE: _____ **DATE:** 6/24/21
OWNER'S SIGNATURE: _____ **DATE:** _____

***APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL
ASSESSMENT FORM, A VICINITY MAP, A DEVELOPMENT PLAN, EROSION AND SEDIMENT
CONTROL PLAN, AND THE PROPOSED PHASING OF DEVELOPMENT OF THE SITE.**

.....Office Use Only.....

Administrative Permit:

Planning Board Permit:

JUN 25 2021

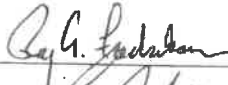
APPLICANT ACKNOWLEDGEMENT

By making this application, the undersigned Applicant agrees to permit Town officials and their representatives to conduct on-site inspections in connection with the review of this application.

The applicant also agrees to pay all expenses for the cost of professional review services required for this application, as referred to in §133-1 of the Code of the Town of Somers. As such, an Escrow Account, according to §133-2 of the Code of the Town of Somers, may be required.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

Signature of Applicant:



Date: 6/21/21

✓ Signature of Property Owner:
(if different from applicant)



Date: 6/24/21

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
CHAPTER 67 "APPLICATION PROCESSING RESTRICTIVE LAW"**

CERTIFICATION

I hereby certify that to the best of my knowledge no outstanding fees are due and owing to the Town of Somers for the following property:

Section 47.16 Block 1 Lot 23

Property Address 3 TALL TREES COURT, KATONAH, NY 10536

Permit Applying For POOL SITE PLAN - SMECC and WL

Furthermore, I hereby certify that to the best of my knowledge no outstanding violation (as that term is defined for the purposes of the Application Processing Restrictive Law, Paragraph 4D) of local laws or ordinances of the Town of Somers exist with respect to the above cited property or any structure or use existing thereon.

✓ Signed [Signature]
(Owner of Record)

(Print Name)

Date 6/24/21

Signed [Signature]
(Applicant for Permit)

ROY A. FREDRIKSEN

(Print Name)

Date 6/21/21

CONFIRMATIONS

Zoning Enforcement Officer

Date: _____

Director of Finance for Fees

Date: _____

Engineering Department

Date: _____

Receiver of Taxes

Date: _____

7/2014

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completion

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information

Name of Action or Project:

STEINBERG - POOL SITE PLAN

Project Location (describe, and attach a location map):

3 TALL TREES COURT, SOMERS, NY

Brief Description of Proposed Action:

CONSTRUCTION OF AN INGROUND POOL AND PATIO

Name of Applicant or Sponsor:

ROY A. FREDRIKSEN, PE

Telephone:

E-Mail:

Address:

City/PO:
MAHOPAC

State:
NY

Zip Code:
10541

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?

NO YES

If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.

☒ ☐

2. Does the proposed action require a permit, approval or funding from any other government Agency?

NO YES

If Yes, list agency(s) name and permit or approval: TOWN BLDG. DEPT.

☐ ☒

3. a. Total acreage of the site of the proposed action?

1.65 acres

- b. Total acreage to be physically disturbed?

0.1 acres

- c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?

1.65 acres

4. Check all land uses that occur on, are adjoining or near the proposed action:

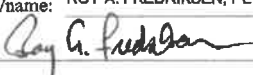
5. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☒ Residential (suburban)

☐ Forest ☐ Agriculture

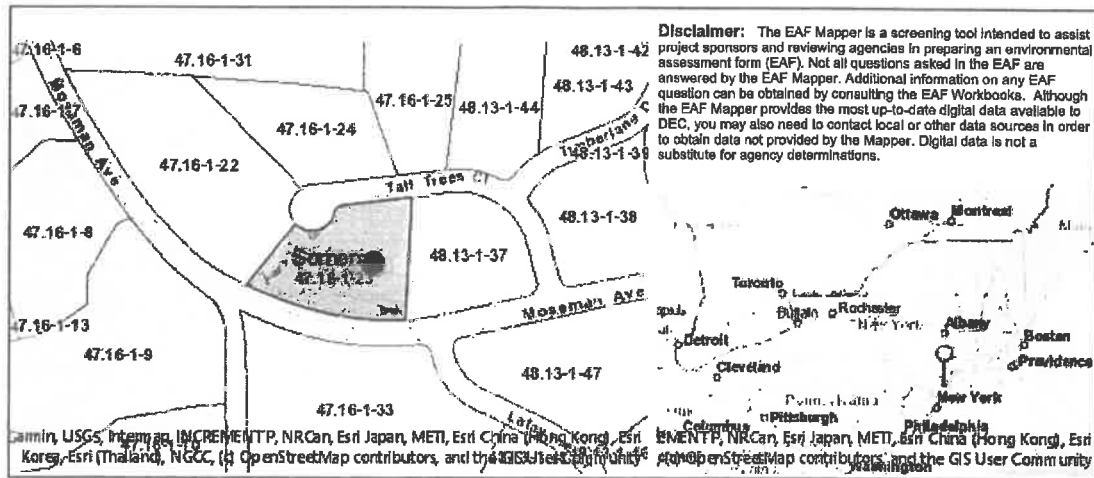
☐ Aquatic ☐ Other(Specify):

☐ Parkland

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ WELL _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ SEPTIC SYSTEM _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>		
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>		
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: ROY A. FREDRIKSEN, PE Date: 6/8/21		
Signature:  Title: CONSULTANT		

PRINT FORM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

BANDON, WILLIAM E. JR. &

STEINBERG, CRAIG

CIPOLLA, THOMAS M. &

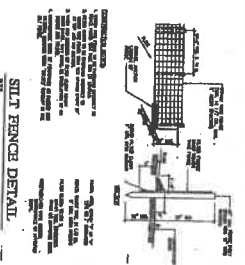
BORSTELMANN, PETER &

LASSEN, BRETT &

BASS, JEFFREY &
NORA

JENKINS, WAL SUN

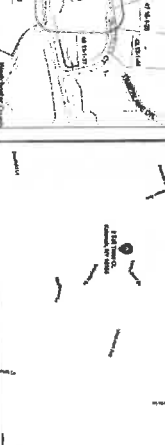
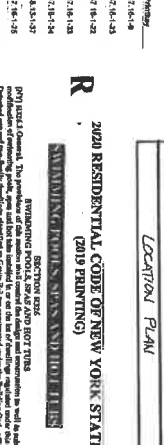
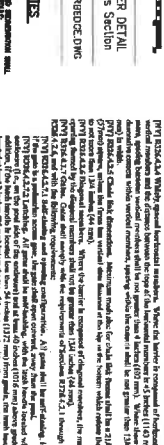
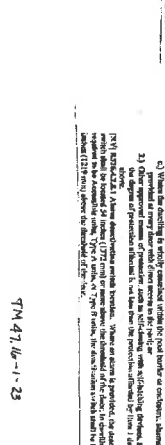
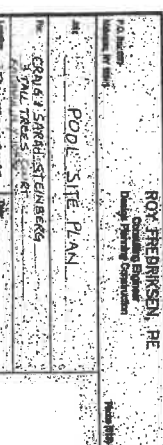
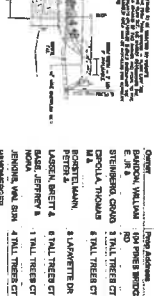
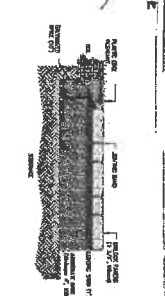
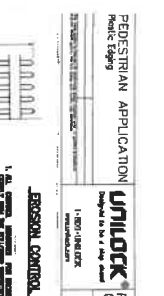
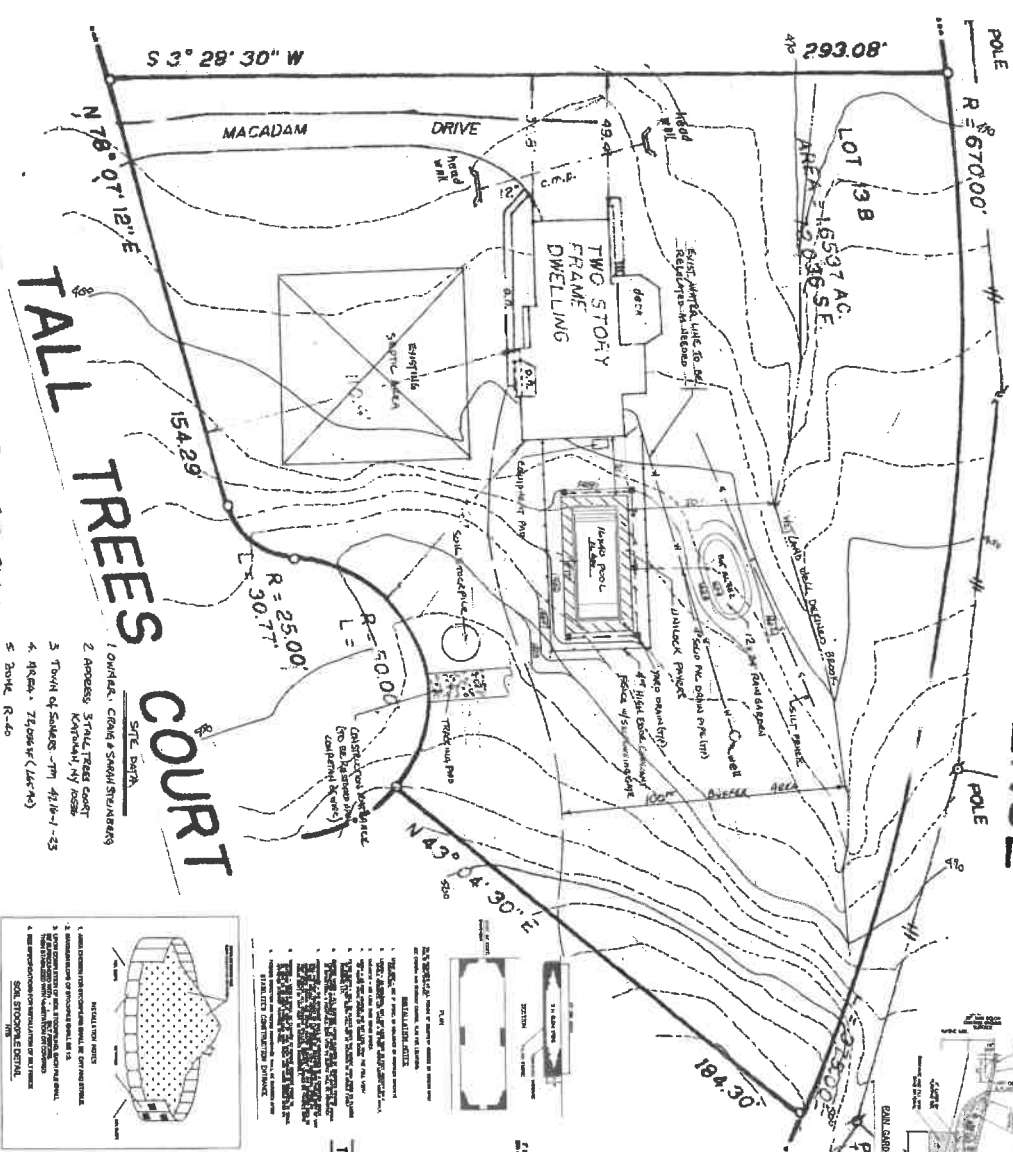
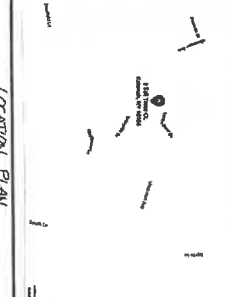
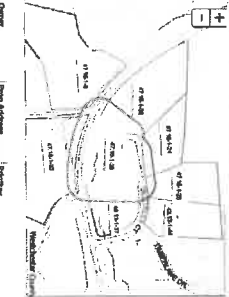
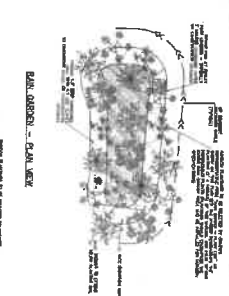
HANDWERGER, MARIA E.



MOSEMAN AVENUE

1. 11/15/2019 - 11/15/2019
2. 11/15/2019 - 11/15/2019
3. 11/15/2019 - 11/15/2019
4. 11/15/2019 - 11/15/2019
5. 11/15/2019 - 11/15/2019
6. 11/15/2019 - 11/15/2019
7. 11/15/2019 - 11/15/2019
8. 11/15/2019 - 11/15/2019
9. 11/15/2019 - 11/15/2019
10. 11/15/2019 - 11/15/2019

NO.	DATE	DESCRIPTION
1	11/15/2019	11/15/2019 - 11/15/2019
2	11/15/2019	11/15/2019 - 11/15/2019
3	11/15/2019	11/15/2019 - 11/15/2019
4	11/15/2019	11/15/2019 - 11/15/2019
5	11/15/2019	11/15/2019 - 11/15/2019
6	11/15/2019	11/15/2019 - 11/15/2019
7	11/15/2019	11/15/2019 - 11/15/2019
8	11/15/2019	11/15/2019 - 11/15/2019
9	11/15/2019	11/15/2019 - 11/15/2019
10	11/15/2019	11/15/2019 - 11/15/2019



PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589
www.somersny.com



Steven Woelfle
Principal Engineering Technician
swoeffle@somersny.com

DATE: July 14, 2021

TO: Town Board
Director of Finance

FROM: Steven Woelfle *SW*
Engineering Department

RE: **CVS Route 6**
Refund of SEQRA/Professional Service Fee

The applicant of the above-mentioned project requested to withdraw their application. Therefore, please refund the remaining SEQRA/Professional Service Fee in the amount of \$16,124.50, as follows:

TMC New England LLC
501 Pennsylvania Parkway
Suite 160
Indianapolis, IN 46240

SW/wg

cc: Town Clerk
Riddar Nget, Cuddy & Feder, LLP

Z:\PE\Site plan files\CVS Route 6\Escrow\Return of SEQRA fees.doc

Sent to:
TB, TA, TC
7/26/2021
KD

INTEROFFICE MEMORANDUM

TO: TOWN SUPERVISOR AND MEMBERS OF THE TOWN BOARD
FROM: SENIORS DEPARTMENT DIRECTOR, BARBARA TABERER
SUBJECT: WIN AND NSIP FINDING FOR PY 2021-2022
DATE: JULY 1, 2021
CC: TOWN CLERK AND FINANCE DIRECTOR

Barbara Taberer, Seniors Department Director requests the Town Supervisor execute the
WIN/NSIP Funding Contract for PY April1,2021 through March31, 2022 .
\$92,238